I. AUTHORITY

20.25E.010 General.

A. Authority.

This chapter is adopted as the City of Bellevue Shoreline Master Program (SMP). The SMP is adopted under the authority of Chapter 90.58 Revised Code of Washington (RCW), the Shoreline Management Act of 1971 (SMA) as adopted or hereafter amended or superseded. The purpose of the SMP is to fulfill the public purpose of preserving important shoreline natural resources of the state and City, and to protect and promote the public, heath, safety, and general welfare in a manner that balances resource protection and use of the shoreline while respecting property rights through regulation of development only to an extent that is consistent with all relevant constitutional and other legal limitations.

B. Shoreline Master Program Elements.

1. The SMP consists of the following policies, regulations, and documents:

   a. The Shoreline Element of the City of Bellevue Comprehensive Plan, Title 21 BCC.

   b. This Part 20.25E LUC, commonly referred to as the Shoreline Overlay District. This part has been annotated for ease of use. Terms defined in this Part are *italicized*. Definitions of shoreline-specific terms are located in LUC 20.25E.280. Definitions of general terms that apply throughout the Land Use Code are located in Chapter 20.50 LUC (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP. A list of acronyms used in this Part is located in LUC 20.25E.290.

   c. Part 20.25H LUC, Critical Areas Overlay District.

2. The SMP consists of the following policies, maps, and documents which are included to comply with Department of Ecology submittal requirements for an SMP. The following documents are informational only, and do not have a regulatory effect on property located within shoreline jurisdiction.

   a. The Shoreline Environments Designation Map.

   b. Shoreline Jurisdiction Maps.

   c. Shoreline Inventory and Characterization.

d. Shoreline Restoration Element of the SMP. This document shall not be considered to contain regulations, but shall be used as a guideline for capital improvement planning by the City and other entities undertaking ecological shoreline restoration activities with the shoreline overlay district in Bellevue.

e. Shoreline Cumulative Impacts Analysis.

3. A complete copy of all SMP elements is filed with the Department of Ecology, the City Clerk and is available for examination by the general public in the Records Division. Another printed copy is available at the Development Services Department or its successor entity. Additionally, a copy is electronically available on the City of Bellevue website at www.bellevuewa.gov.

C. Scope.

1. Applicability.

The regulatory portion of the SMP contains standards and procedures applicable to development and uses within the Shoreline Overlay District, which includes any site that is in whole or in part within the areas described in LUC 20.25E.010.C.2. All proposed uses and development within the Shoreline Overlay District must conform to the SMA and the SMP. The policies and regulations of this SMP apply to all shoreline uses and developments regardless of whether a shoreline permit is required, and will be implemented only to an extent that application to a proposal is consistent with all relevant constitutional and other legal limitations.

a. Overlay. The shoreline regulations contained in this Part shall apply as an overlay. Land use regulations, development regulations, and other regulations, ordinances, and standards established by the City apply to projects located within the Shoreline Overlay District, unless made specifically inapplicable by paragraph C.1.c of this section. Unless expressly incorporated by reference, general land use regulations, development regulations, and other regulations, ordinances, and standards of the City are not part of the SMP that is subject to the shoreline review and appeal procedures set forth in LUC 20.25E.100-140.

b. Relationship to other Policies and Regulations.

i. Non-Critical Area Conflicts. In the event of any conflict between this Part 20.25E LUC and any other regulations of the City,

except the Critical Areas Overlay District, the regulations contained in this SMP shall prevail except as specifically required by this Part.

ii. Critical Area Conflicts. In the event of a conflict between the provisions of this Part 20.25E LUC and Part 20.25H LUC (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP), the provisions providing the most protection to critical area functions and values shall prevail. Otherwise, the provisions of this Part shall apply.

c. Regulations not Applicable in the Shoreline Overlay District. The following regulations of the Land Use Code, Title 20 Bellevue City Code (BCC) now or as hereafter amended, do not apply in the Shoreline Overlay District. Unless specifically listed below, all other regulations apply.

Uses, except as specifically noted in LUC 20.25E.030:

i. 20.10.400
ii. 20.10.420
iii. 20.10.440

General Development Standards

i. 20.20.010 Minimum Greenscape Percentage of Front Yard Setback and associated Note 40
ii. 20.20.025 within the shoreline structure setback required by LUC Chart 20.25E.050.A and Chart 20.25E.065.C.
iii. 20.20.840
iv. 20.20.900 within the vegetation conservation area defined pursuant to LUC 20.25E.065.F.5.

2. Shoreline Overlay District Jurisdiction.

The SMP applies to shorelines of the state, which include Shorelines of Statewide Significance and shorelines as defined in Chapter 90.58.030 RCW and this paragraph. The Shoreline Overlay District jurisdiction encompasses those lake waters 20 acres in size or greater and those stream waters with a mean annual water flow exceeding 20 cubic feet per second; the shorelands underlying them; the lands extending landward for 200 feet in all directions from the OHWM on a horizontal plain to a point that results in the required 200 foot dimension; floodways and contiguous floodplain areas landward 200 feet from such floodways

associated with such streams and lakes; and all wetlands associated with such streams and lakes. Specifically included in the Shoreline Overlay District jurisdiction are the following:

a. Lake Washington, including Mercer Slough upstream to Interstate 405 – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, plus associated floodways, floodplains, and wetlands;

b. Lake Sammamish – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, plus associated wetlands;

c. Lower Kelsey Creek – The creek waters, underlying lands, and territory between 200 feet on either side of the top of the banks, plus associated floodways, floodplains, and wetlands;

d. Phantom Lake – The lake waters, underlying lands and the area 200 feet landward of the ordinary high water mark, plus associated floodways, floodplains, and wetlands;

e. On lakes Sammamish and Washington, waterward from the ordinary high water mark or specified vertical elevation to the City's jurisdictional boundary.

D. Environment Designations (Shoreline Use Districts).

The SMP classifies shoreline areas into six unique environment designations or shoreline use districts. These designations are based on the existing use pattern, the biological and physical character of the shoreline as identified in the Shoreline Inventory and Characterization, and the community goals as expressed in the Bellevue Comprehensive Plan. The SMP contains environment-specific policies and regulations to address the type of shoreline uses allowed, conditionally allowed and prohibited, dimensional standards, and other regulations necessary to assure implementation of the specific environment purpose. The six shoreline environments designated in Bellevue are:

1. "Aquatic" (A) Environment.

a. Purpose. The purpose of the Aquatic environment is to protect, manage, and restore the unique characteristics and resources of the areas waterward of the ordinary high water mark (OHWM) while the balancing promotion of recreational uses, such as docks and marinas, that are constructed in a manner that protects the resource.

b. Designation Criteria**.** An Aquatic environment designation is assigned waterward from the OHWM to the City of Bellevue jurisdictional limit.

2. "Urban Conservancy" (UC) Environment.

a. Purpose. The purpose of the Urban Conservancy environment is to maintain shoreline ecological functions and foster opportunities to restore shoreline ecological functions while allowing compatible uses and development, such as public and private access to the shoreline. The primary management goal in the UC environment is to recognize existing recreation resources and focus restoration in areas where benefits to overall ecological functions and processes can be realized while allowing a range of compatible uses. This goal should be furthered by keeping the overall development intensity low and by husbanding or enhancing the natural character of the UC environment.

b. Designation Criteria. An Urban Conservancy environment designation is assigned to Bellevue shorelands with moderate to high levels of existing ecological function for which existing and planned development is compatible with maintenance or restoration of ecological functions. Included are those areas where:

i. Development and uses are confined to those activities that support recreation, public access to the shoreline, or low-density residential uses that are compatible with maintenance and restoration of shoreline ecological functions;

ii. Shoreline ecological functions are more intact than areas designated Shoreline Residential;

iii. There is obvious potential for ecological restoration; and

iv. Critical areas or cultural features are present that require heightened restrictions on development and use.

3. "Urban Conservancy-Open Space" (UC-OS) Environment.

a. Purpose. The purpose of the Urban Conservancy-Open Space environment is to protect, retain, or restore those shoreline areas that are relatively free of urban development or that include intact or minimally degraded shoreline functions intolerant of urban development. These systems require limitations on use and development intensity to maintain the ecological functions and ecosystem wide processes. The primary management goal is to focus restoration where benefits to the Shoreline Overlay District functions and processes can be realized overall, while allowing a range of more urban development to occur in the Shoreline Residential, Shoreline Residential Canal and Recreational Boating environment designations. In the UC-OS, the focus is on dispersed, low-

intensity recreation, with walking, running, wildlife viewing, and scientific education being the primary uses. The purpose of this environment designation is furthered by keeping the overall intensity of development low and by husbanding or enhancing the natural character of the area.

b. Designation Criteria**.** An Urban Conservancy Open-Space environment designation is assigned to Bellevue shorelands with relatively high levels of existing ecological function for which existing and planned low-intensity development is compatible with maintaining or restoring ecological functions. Included are those areas where:

i. Development activities and uses are confined to those activities that support low intensity, dispersed recreation, or other low intensity uses that are compatible with maintenance and restoration of shoreline ecological functions;

ii. Ecological functions are more intact than areas designated Urban Conservancy;

iii. Ecological function is high and ecological processes are mostly intact and there is obvious potential for shoreline ecological restoration; and,

iv. Critical areas or cultural features are present that require heightened restrictions on use and development.

4. "Shoreline Residential" (SR) Environment.

a. Purpose. The purpose of the Shoreline Residential environment is to accommodate single or multifamily residential development and appurtenant structures.

b. Designation Criteria. A Shoreline Residential environment designation is assigned to Bellevue shorelands which are predominantly characterized by residential development or are planned for residential development and exhibit moderate to low levels of ecological functions because of historic shoreline modification activities.

5. "Shoreline Residential Canal" (SRC) Environment.

a. Purpose. The purpose of the Shoreline Residential Canal environment is to maintain single-family residential development adjacent to artificially-created canals in the Newport Shores community. The SRC designation acknowledges the unique characteristics of that portion of the Newport Shores community that is dependent on the artificial canals for access to waters of the state for the purpose of navigation. This

environment also identifies specific physical and biological constraints related to the presence of engineered bulkheads that support the artificial canal system and the filled lands behind the bulkheads.

b. Designation Criteria**.** A Shoreline Residential Canal environment designation is assigned to Bellevue shorelands within the Newport Shores community with frontage along an artificial canal system which is dependent on engineered bulkheads for structural support. These areas are characterized by a relatively low-level of shoreline ecological function. The SRC environment does not include those Newport Shores properties with frontage on the Lake Washington shoreline.

6. "Recreational Boating" (RB) Environment.

a. Purpose. The purpose of the Recreational Boating environment is to provide a variety of water dependant and water-oriented uses, with primary focus on activities associated with recreation. The RB environment should not support heavy commercial or industrial uses, other than limited commercial activities conducted accessory to a marina use.

b. Designation Criteria. A Recreational Boating environment designation is assigned to Bellevue shorelands currently used as marinas (both public and private), yacht clubs, community clubs supporting water-dependent recreational boating uses, and associated activities. Additional RB areas may be designated as demand for public access to viewing, water-oriented recreation, and recreational boating facilities increases.

E. Shoreline Environments Designation Map.

The Shoreline Environments Designation Map is the graphic representation of the Bellevue shorelines regulated under this Part. The adopted map identifies the shoreline environment designations to the individual parcel level, as well as a generalized representation of the extent of the shoreline jurisdiction. The shoreline jurisdiction on the map is an approximate representation of the extent and location of the Shoreline Overlay District and has not been formally delineated or surveyed. Shoreline jurisdiction is defined in state law as measured from ordinary high water mark, and additional site specific evaluation may be required to confirm the location of the Shoreline Overlay District prior to undertaking any shoreline modification.

F. Shorelines of Statewide Significance.

1. Purpose and Scope. Under the SMA, shorelines of statewide significance are accorded special emphasis and the interest of all the people shall be paramount in their management.

2. Designation of Shorelines of Statewide Significance. Shorelines of statewide significance in Bellevue include lakes Washington and Sammamish and their associated shorelands. Mercer Slough's wetlands are associated with Lake Washington and therefore are shorelines of statewide significance.

3. Priority of Uses. Development, redevelopment, and use of lakes Washington and Sammamish and their associated shorelands were prioritized as set forth in RCW 90.58.020(1)-(7) in developing the SMP. Pursuant to WAC 173-26-181, preferred uses exhibit the characteristics listed below in descending order of priority:

a. Recognize and protect the statewide interest over local interest for Shorelines of Statewide Significance.
b. Preserve the natural character of the shorelines.
c. Result in long-term over short-term benefits.
d. Protect the resources and ecology of the shorelines.
e. Increase public access to publicly owned areas of the shorelines.
f. Increase recreational opportunities for the public in the shoreline.
g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

20.25E.020 Shoreline Uses Described.

A. Shoreline Use Preferences.

It is the intent of the SMP to manage the use and development of Bellevue's shorelines consistent with the legislative priorities established for shorelines of statewide significance and the shoreline use preferences both described in RCW 90.58.020. The shoreline uses allowed in Bellevue pursuant to LUC 20.25E.030 (Shoreline Use Charts) help to achieve the legislative objectives by giving preference to specific uses on shorelines of statewide significance, uses which are consistent with control of pollution and prevention of damage to the natural environment, and uses that are unique to or dependent upon use of the state's shoreline as described below.

1. For uses on shorelines of statewide significance, the use preferences in LUC 20.25E.010.F were applied.

2. For uses that require alteration of the shorelines of the state, in those limited conditions when alteration is authorized, priority was given for:

    a. Single-family residences and their appurtenant structures;

    b. Shoreline recreational uses, including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines;

    c. Commercial development that is particularly dependent on its location on or use of the shorelines; and,

    d. Other development that will provide an opportunity for substantial numbers of the people to enjoy the shoreline.

B. Applicability of the Use Charts.

The Shoreline Use Charts contained in LUC 20.25E.030 apply in the Shoreline Overlay District. The uses and activities contained in LUC 20.25H.055 (Critical Areas Overlay District) may also be undertaken in the Shoreline Overlay District when located in critical areas identified pursuant to LUC 20.25H.030. The Land Use Charts contained in LUC 20.10.440 do not apply in the Shoreline Overlay District, except as specifically noted in LUC 20.25E.030.

C. Use Chart Interpretation.

1. In Chart 20.25E.030, shoreline use classifications are listed on the vertical axis. City of Bellevue shoreline environments are listed on the horizontal axis. The following use chart description and interpretation provisions apply within the

Shoreline Overlay District, and the general Land Use Code chart interpretation provisions of LUC 20.10.400 and 20.10.420 do not apply.

a. If the symbol "X" appears in the box at the intersection of the column and the row, the use is not allowed in that shoreline environment.

b. If the symbol "SSDP" appears in the box at the intersection of the column and the row, the use is permitted subject to the applicable provisions of the SMP, and to Shoreline Substantial Development Permit provisions contained in LUC 20.25E.120 (Shoreline Process II), 20.25E.160 (Shoreline Substantial Development Permits) and 20.25E.170 (Letters of Exemption).

c. If the symbol "C" appears in the box at the intersection of the column and the row, the use is permitted subject to the Shoreline Conditional Use Permit provisions contained in LUC 20.25E.110 (Shoreline Process I) and 20.25E.180 (Shoreline Conditional Use Permits), in addition to any applicable provisions of the SMP.

d. If a number appears in the box at the intersection of the column and the row, the use is permitted through the applicable review process and subject to the special procedural and substantive provisions contained in the corresponding Notes. Numbers appearing in the Land Use Classification column apply to the entire row.

2. Interpretation of Shoreline Use Charts by Director.

a. Director's Authority. In the case of a question as to the inclusion or exclusion of a proposed use in a particular use category, the Director shall have the authority to make the final determination. The Director shall make the determination according to the operational characteristics of the operation of the proposed use and based upon the Director's interpretation of the Standard Land Use Coding Manual, the Standard Industrial Classification Manual, and the North American Industry Classification System.

b. Appeal. An applicant may appeal the final decision of the Director provided pursuant to paragraph 2.a of this section by requesting an interpretation of the use charts contained in LUC 20.25E.030 relating to the inclusion or exclusion of a proposed use. This request for interpretation of the Land Use Code charts will be processed pursuant to Part 20.30K LUC.

D. Prohibited Uses in the Shoreline Jurisdiction.

1. General. Uses identified under paragraph D.2 of this section are specifically prohibited in all shoreline environments. Prohibited shoreline uses or activities shall not be authorized through a shoreline variance, shoreline conditional use permit, or other permit or approval.

2. Prohibited Uses in all shoreline environments. The following uses and activities are prohibited:

a. Mining, quarrying (including Sand and Gravel), oil and gas extraction. Standard Land Use Code Reference number 85.
b. Forestry. Standard Land Use Code Reference number 83.
c. Manufacturing. Standard Land Use Code reference numbers 2 and 3.
d. Solid waste disposal. Standard Land Use Code Reference number 485.
e. Non-water dependent governmental services (Standard Land Use Code Reference numbers 671, 672, and 673) and limited governmental services.
f. Military and correctional Institutions (Standard Land Use Code Reference numbers 674 and 675) and secure community transition facilities.
g. Educational institutions, including primary, secondary, universities, colleges, and special schools (Standard Land Use Code Reference numbers 681, 682 and 683), except as noted in the Shoreline Use Chart – Services, Note 2.

3. If a use is not listed as a Land Use Classification in the Shoreline Use Charts contained in LUC 20.25E.030, then the use is prohibited.

20.25E.030 Shoreline Use Charts.

The following charts apply to uses within the Shoreline Overlay District. The use charts in LUC 20.10.440 apply only to that portion of a site outside of the Shoreline Overlay District except as specifically noted in this section. If a use is not listed as a Land Use Classification in the Shoreline Use Charts in this section, then the use is prohibited.

RESIDENTIAL CHART

	SHORELINE ENVIRONMENTS					
LAND USE CLASSIFICATION	**Aquatic**	**Urban Conservancy – Open Space**	**Urban Conservancy**	**Shoreline Residential**	**Shoreline Residential - Canal**	**Recreational Boating**
Single-Family Dwelling	X	SSDP (1)	SSDP (1)	SSDP	SSDP	SSDP (2)
Multifamily Dwellings (Two or more units per structure)	X	X	SSDP (3)	SSDP (4)(5)	X	X
Congregate Care Senior Housing	X	X	X	SSDP (5)(6)	X	X
Nursing Home	X	X	X	SSDP/C (5)(7)	X	X
Assisted Living	X	X	X	SSDP/C (5)(7)	X	X
Accessory Dwelling Unit (8)	X	SSDP	SSDP	SSDP	SSDP	X

Notes: Uses in Shoreline Environments - Residential

(1) Single family dwellings are allowed in this shoreline environment only if there is no other feasible alternative, pursuant to the requirements of LUC 20.25E.060.C (Technical Feasibility), to locate the building on the portion of the property outside Shoreline Overlay District.

(2) One dwelling unit is allowed if ancillary to a legally established land use identified in the Recreation Chart.

(3) Multifamily dwellings are permitted within the Urban Conservancy Environment only on parcels located in an Office (O) or Office Limited Business (OLB) land use district pursuant to LUC 20.10.440, and when developed consistent with the requirements contained in LUC 20.25E.040 (Nonconforming Shoreline Conditions).

(4) Multifamily development located in the shoreline residential environment shall not exceed the dwelling units per acre requirement for the underlying land use district (refer to LUC 20.20.010).

(5) An agreement must be recorded with the King County Department of Records and Elections, or its successor agency, restricting senior citizen dwellings, congregate care senior housing, or assisted living to remain for the life of the project as senior housing.

(6) Congregate care senior housing is a permitted use when more than 50% of the dwelling units contain kitchens and are designed for independent living; all other congregate care senior housing requires approval through the Shoreline Conditional Use process (refer to LUC 20.25E.110 and 20.25E.180).

(7) Nursing homes and assisted living facilities are a permitted use when part of a multifamily development that comprises more than 50% of the net floor area of the entire project; all other nursing homes and assisted living facilities require approval through the Shoreline Conditional Use Permit process (refer to LUC 20.25E.110 and 20.25E.180).

(8) Accessory dwelling units may be established pursuant to applicable provisions of the SMP and the requirements of LUC 20.20.120 (Accessory Dwelling Units).

KEY

X – Use not allowed
SSDP – Permitted Use subject to Shoreline Substantial Development Permit or Exemption requirements (see LUC 20.25E.160 and 20.25E.170)
C – Shoreline Conditional Use (see LUC 20.25.180) subject also to Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170)

TRANSPORTATION and UTILITIES CHART (3)

	SHORELINE ENVIRONMENTS					
LAND USE CLASSIFICATION	**Aquatic**	**Urban Conservancy – Open Space**	**Urban Conservancy**	**Shoreline Residential**	**Shoreline Residential - Canal**	**Recreational Boating**
Water-dependent transportation: Commercial float plane and ferry terminal	(1)	X	X	X	X	C (11)
Highway and Street Rights-of-Way (2)	C/ SSDP (3)	C/SSDP (3)	C/SSDP (3)	SSDP	SSDP	SSDP
Railroads (2)	C	C	C	C	C	C
Pedestrian and bicycle, facilities (2)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP
Accessory Parking, Loading and Maintenance Access	X	(4)	(4)	(4)	(4)	(4)
Regional light rail transit system or facility	SSDP/ C (12)	SSDP/C (12)	SSDP/C (12)	SSDP/C (12)	SSDP/C (12)	SSDP/C (12)
Park and Ride (2)	X	C	C	C	C	C
Utility Facility, excluding *Electrical Utility Facility* (2)(5)	C/ SSDP	C/SSDP	C/SSDP	C/SSDP	C/SSDP	C/SSDP
Local Utility System (2)	SSDP	SSDP	SSDP	SSDP	SSDP	SSDP

TRANSPORTATION and UTILITIES CHART (3)

	SHORELINE ENVIRONMENTS					
LAND USE CLASSIFICATION	**Aquatic**	**Urban Conservancy – Open Space**	**Urban Conservancy**	**Shoreline Residential**	**Shoreline Residential - Canal**	**Recreational Boating**
Regional Utility System, except Electrical Utility Facility (2)(5)(6)	C/ SSDP	C/SSDP	C/SSDP	C/SSDP	C/SSDP	C/SSDP
Essential Public Facility (2)(7)	C	C	C	C	C	C
Wireless Communication Facility (WCF): (without WCF Support Structures) (2)(8)	X	C	C	C	C	C
Communication, Broadcast and Relay Towers including WCF Support Structures (Freestanding) (2)(8)	X	C	C	C	C	C
Satellite Dishes (9)	X	SSDP	SSDP	SSDP	SSDP	SSDP
Electrical Utility Facility (2) (10)	C	C	C	C	C	C

Notes: Uses in Shoreline Environments – Transportation and Utilities

(1) Moorage and landing facilities may be allowed only as accessory to a water-dependent transportation use approved through the Shoreline Conditional Use Permit process (refer to LUC 20.25E.110 and 20.25E.180).

(2) This use may be approved through the required shoreline review process, only if there is no technically feasible alternative pursuant to the requirements of LUC 20.25E.060.C (Technical Feasibility).

(3) A City System or Facility not identified in a Council-adopted Master Plan requires approval through the Shoreline Conditional Use Permit process (refer to LUC 20.25E.110 and 20.25E.180) and is also subject to the Shoreline Substantial

Development Permit requirements (see LUC 20.25E.160 and 20.25E.170). A City System or Facility is a permitted shoreline use subject only to the Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170), provided that the following criteria are met:

(a) The City System or Facility is identified in a Council-adopted Master Plan;

(b) The City System or Facility identified in the Council-adopted Master Plan shall be established, developed, expanded or modified consistent with the terms of the Council-adopted Master Plan; and,

(c) The City System or Facility identified in the Council-adopted Master Plan shall be established, developed, expanded or modified pursuant to the permit process for the proposed use and the underlying land use district as specified in LUC 20.10.440.

(4) Accessory parking, loading and maintenance access may be approved through the shoreline review process required to allow the specific use that is served by the parking.

(5) Refer to LUC 20.20.650 for general requirements applicable to public utilities.

(6) Connections to a legally established Utility Facility or Local Utility System are permitted.

(7) Refer to LUC 20.20.350 for general requirements applicable to Essential Public Facilities.

(8) Refer to LUC 20.20.195 for general requirements applicable to Communication Facilities.

(9) Satellite dishes are permitted only when affixed to a structure housing a legally established shoreline use. Refer to LUC 20.20.730 for general requirements applicable to Large Satellite Dishes.

(10) For the definition of electrical utility facility, see LUC 20.50.018, and for reference to applicable development regulations relating to electrical utility facilities, see LUC 20.20.255. For new or expanding electrical utility facilities proposed in the Shoreline Overlay District, the applicant shall obtain Shoreline Conditional Use Permit approval under LUC 20.25E.110 and 20.25E.180, complete an alternative

siting analysis as described in LUC 20.20.255.D, and comply with decision criteria and design standards set forth in LUC 20.20.255.

(11) Upland components of this use that are located outside of the Shoreline Overlay District shall be permitted subject to the Conditional Use provisions as specified in Part 20.30B LUC and to general requirements for the use and the use district.

(12) Refer to Part 20.25M LUC, Light Rail Overlay District, for specific requirements applicable to EPF defined as a regional light rail transit facility or regional light rail transit system pursuant to LUC 20.25M.020. A shoreline conditional use permit is not required when the City Council has approved a regional light rail transit facility or regional light rail transit system by resolution or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with LUC 20.25M.030.B.1.

KEY

X – Use not allowed
SSDP – Permitted Use subject to Shoreline Substantial Development Permit or Exemption requirements (see LUC 20.25E.160 and 20.25E.170)
C – Shoreline Conditional Use (see LUC 20.25.180) subject also to Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170)

WHOLESALE and RETAIL CHART

	SHORELINE ENVIRONMENTS					
LAND USE CLASSIFICATION	**Aquatic**	**Urban Conservancy – Open Space**	**Urban Conservancy**	**Shoreline Residential**	**Shoreline Residential - Canal**	**Recreational Boating**
Water-dependent commercial, wholesale, retail	X	X	(1)(2)	X	X	(1)(2)
Water-related, water-enjoyment commercial, wholesale, retail	X	X	(1)(2)	X	X	(1)(2)
Retail Boat Sales	X	X	X	X	X	(1)(2)
Marina Fueling Stations	X	X	X	X	X	(1)(2)
Eating and Drinking Establishments	X	X	(1)(2)	X	X	(1)(2)

Notes: Uses in Shoreline Environments – Wholesale and Retail

(1) Accessory to a Private Marina, Yacht Club, Community Club or Public/Private Park. This use may be permitted as an accessory and subordinate use through the shoreline review process required for the legally established recreation use to which it is accessory.

(2) Accessory to a Public Marina or City Park. This use may be permitted as an accessory and subordinate use through the shoreline review process required for the legally established city park use to which it is accessory.

SERVICES CHART

	SHORELINE ENVIRONMENTS					
LAND USE CLASSIFICATION	**Aquatic**	**Urban Conservancy – Open Space**	**Urban Conservancy**	**Shoreline Residential**	**Shoreline Residential - Canal**	**Recreational Boating**
Environmental Education, and Interpretive Centers	(1)	(1)(2)	(1)(2)	X	X	(1)(2)
Religious Activities	X	X	C	C	C	C
Administrative Office – General	X	X	X	X	X	(3)

Notes: Uses in Shoreline Environments – Services

(1) Accessory to a City Park. An Environmental Education or Interpretive Center use may be approved through the review process applicable to the city park use to which it is accessory.

(2) Not Accessory to a City Park. An Environmental Education use may be approved, for facilities that by their nature are dependent on a shoreline location, through the Shoreline Conditional Use Permit process (refer to LUC 20.25E.110 and 20.25E.180). An Environmental Education use does not include primary, secondary, universities, or colleges, unless the school is dependent on a shoreline location to meet the school's educational purpose.

(3) An office is permitted if accessory and subordinate to a legally established use located in the recreational boating environment through the review process applicable to the recreation use to which it is accessory.

KEY

X – Use not allowed
SSDP – Permitted Use subject to Shoreline Substantial Development Permit or Exemption requirements (see LUC 20.25E.160 and 20.25E.170)
C – Shoreline Conditional Use (see LUC 20.25.180) subject also to Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170)

RECREATION CHART (2)

	SHORELINE ENVIRONMENTS					
LAND USE CLASSIFICATION	**Aquatic**	**Urban Conservancy – Open Space**	**Urban Conservancy**	**Shoreline Residential**	**Shoreline Residential - Canal**	**Recreational Boating**
Public Marinas	(1)	X	X	X	X	SSDP (2)
Private Marinas	(1)	X	X	X	X	SSDP/C (3)
Yacht Clubs	(1)	X	X	X	X	SSDP/C (3)
Community Club	(1)	X	X	X	X	SSDP/C (3)
Boat Moorage (4)	(1)	X	(1)	X	X	(1)
Boat Storage (cradle and trailer)	(1)	X	(1)	X	X	(1)
Boat Storage (dry stacked)	(1)	X	X	X	X	(1)
Boat launch ramps (motorized)	(1)	X	(1)	X	X	(1)
Boat launch ramps (non-motorized)	(1)	SSDP	(1)	X	X	(1)
Public/Private Park	(1)	C	C	C	C	C
City Park	(1)	SSDP	SSDP	SSDP	SSDP	SSDP

Notes: Uses in Shoreline Environments – Recreation

(1) Permitted only as accessory and subordinate to a legally established shoreline Recreation use. This use requires approval through the shoreline review process required for the legally established use to which it is accessory.

(2) A City Park not identified in a Council-adopted Master Plan requires approval through the General Conditional Use Permit process (refer to Part 20.30B LUC) and is also subject to the Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170). A City Park is a permitted shoreline use subject only to the Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170), provided that the following criteria are met:

a. The City Park is identified in a Council-adopted Master Plan;

b. The City Park identified in the Council-adopted Master Plan shall be established, developed, expanded or modified consistent with the terms of the Council-adopted Master Plan; and,

c. The City Park identified in the Council-adopted Master Plan shall be established, developed, expanded or modified pursuant to the permit process for the proposed use and the underlying land use district as specified in LUC 20.10.440.

(3) Establishment of new uses and expansions of existing uses greater than 20% require approval through the Shoreline Conditional Use Process (refer to LUC 20.25E.110 and 20.25E.180).

(4) Boat moorage excludes residential docks and piers which are a permitted use pursuant to the development standards for residential docks and piers.

KEY

X – Use not allowed
SSDP – Permitted Use subject to Shoreline Substantial Development Permit or Exemption requirements (see LUC 20.25E.160 and 20.25E.170)
C – Shoreline Conditional Use (see LUC 20.25.180) subject also to Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170)

RESOURCES CHART

	SHORELINE ENVIRONMENTS					
LAND USE CLASSIFICATION	**Aquatic**	**Urban Conservancy – Open Space**	**Urban Conservancy**	**Shoreline Residential**	**Shoreline Residential - Canal**	**Recreational Boating**
Agriculture	X	X (1)	X (1)	X	X	X
Nurseries	X	C/SSDP (2)	C/SSDP (2)	X	X	X
Aquaculture	C	X	X	X	X	X

Notes: Uses in Shoreline Environments – Resources

(1) Existing agricultural activities are permitted to continue pursuant to the requirements of LUC 20.25H.055 (Critical Areas Performance Standards as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP). New agriculture uses and expansions of existing agriculture uses are prohibited.

(2) Nurseries established and operated for native plant propagation are permitted, all other nurseries require approval through the Shoreline Conditional Use process (refer to LUC 20.25E.110 and 20.25E.180).

KEY

X – Use not allowed
SSDP – Permitted Use subject to Shoreline Substantial Development Permit or Exemption requirements (see LUC 20.25E.160 and 20.25E.170)
C – Shoreline Conditional Use (see LUC 20.25.180) subject also to Shoreline Substantial Development Permit requirements (see LUC 20.25E.160 and 20.25E.170)

20.25E.040 Nonconforming Shoreline Conditions

A. Purpose.

Many existing uses and developments would not be allowed pursuant to the Shoreline Use Charts (refer to LUC 20.25E.030) and development regulations in this Part 20.25E LUC that are in effect to implement the SMP. The purpose of this section is to allow the continued operation and modernization of nonconforming shoreline uses and developments that were legally established or constructed prior to adoption of the SMP. An additional purpose of this section is to allow existing development that is nonconforming to the use requirements of LUC 20.25E.030 and the development regulations of this Part 20.25E LUC to undergo limited conversions that allow the existing development to accommodate allowed shoreline uses with some amount of proportional compliance.

B. Types of Nonconforming Shoreline Conditions – Definitions.

A nonconforming shoreline condition refers to a site that contains either a nonconforming shoreline use or nonconforming shoreline development which was lawfully established or constructed prior to [insert effective date], as defined in this paragraph B and based on documentation provided pursuant to paragraph D of this section.

1. Nonconforming Shoreline Use. The use of a structure or land which was permitted when established, in existence on [insert effective date], and not discontinued or destroyed, but is not otherwise allowed under LUC Chart 20.25E.030.
2. Nonconforming Shoreline Development. A structure or non-structural exterior site development which was permitted when established, in existence on [insert effective date], and not discontinued or destroyed, but does not otherwise comply with Part 20.25E LUC.

C. Applicability.

1. This section does not apply to nonconforming residential development. Refer to LUC 20.25E.065.J (Residential Shoreline regulations).

2. This section applies to all nonconforming conditions occurring within the Shoreline Overlay District that are not otherwise governed pursuant to LUC 20.25E.065.J (Residential Shoreline Regulations).

3. The nonconforming provisions of WAC 173-27-080 do not apply within the Shoreline Overlay District.

4. The nonconforming provisions of LUC 20.20.070 and 20.20.560 do not apply within the Shoreline Overlay District.

5. Expansions or modifications of a nonconforming shoreline use, structure, or site located within a critical area or critical area buffer identified pursuant to LUC 25.25H.030 shall comply with any applicable requirements of Part 20.25H LUC (Critical Areas Overlay District), unless specifically exempted by this Part 20.25E LUC (Shoreline Overlay District).

6. In event of a conflict between this section LUC 20.25E.040 (Nonconforming Conditions) and Part 20.25H LUC (Critical Areas Overlay District), the requirements of this section LUC 20.25E.040 shall control.

7. Modifications to signs associated with a nonconforming use or development shall comply with any applicable requirements of the Sign Code, Chapter 22B.10 BCC now or as hereafter amended.

D. Documentation.

As part of the permit application process, and before undertaking work allowed by this section, the applicant shall submit documentation demonstrating that the nonconforming shoreline condition was legally established and maintained over time. The Director shall determine based on paragraphs D.1 and D.2 of this section whether the documentation is adequate to support a determination that the use and/or development constitutes a legally established nonconforming shoreline condition under the terms of this section. The Director may waive the requirement for documentation when a nonconforming shoreline condition is clearly known.

1. Nonconforming Shoreline Condition Permitted when Established. Documentation that the nonconforming shoreline condition was permitted when established includes, but is not limited to, the following:
   a. Building, land use or other development permits; or
   b. Land use or zoning code or land use district maps in effect at the time the nonconforming shoreline condition was established.
2. Nonconforming Shoreline Condition Maintained Over Time. Documentation that the nonconforming shoreline condition has been maintained over time, and not discontinued, destroyed, or relinquished as described in this section includes, but is not limited to, the following:
   a. Utility bills;
   b. Income tax records;
   c. Business licenses;
   d. Listings in telephone or business directories;
   e. Advertisements in dated publications;
   f. Building, land use or other development permits;
   g. Insurance policies;
   h. Leases; or

i. Dated aerial photos.

3. Appeal of Director Determination. The Director's determination of whether a use or development constitutes a lawfully established nonconforming shoreline condition may be appealed pursuant to LUC 20.35.250, Appeal of Process II decisions.

E. Regulations and Thresholds Applicable to All Nonconforming Shoreline Conditions.

1. Ownership. The status of a nonconforming shoreline condition is not affected by changes in ownership.
2. Maintenance and Repair. Routine maintenance and repair associated with nonconforming shoreline conditions is allowed. "Routine maintenance" includes those usual acts to prevent decline, lapse, or cessation from a legally established condition. "Routine repair" includes in-kind restoration to a state comparable to its original condition within a reasonable period after decay has occurred. Improvements meeting the definition of an alteration or a replacement are not considered maintenance or repair.
3. Alterations. Improvements that cost more than 50% of the replacement value of any individual structure or non-structural exterior site development undergoing improvement are defined as alterations and shall comply with paragraph G.2 of this section.
4. Replacements Allowed only in Office (O) and Office Limited Business (OLB) Land Use Districts. Improvements that cost more than 100% of the replacement value of any individual structure or non-structural exterior site development undergoing improvement, or improvements that remove and reconstruct a nonconforming shoreline development irrespective of cost, are defined as replacements and shall comply with paragraph G.3 of this section. Replacements that are not governed by the provisions of paragraph G.3 of this section shall be considered new development, and shall require full compliance with the provisions of the SMP.
5. Permits. If not exempt under the terms of LUC 20.25E.170, a Shoreline Substantial Development Permit shall be obtained prior to undertaking any maintenance and repair, alteration, or replacement authorized by this section.

F. Regulations Applicable to Nonconforming Shoreline Uses.

1. Operations. Operations associated with a nonconforming shoreline use may continue.
2. Expansions Prohibited. A nonconforming shoreline use may not be enlarged or expanded.
3. Change of Nonconforming Uses Prohibited. A nonconforming shoreline use shall not be changed to another nonconforming shoreline use, regardless of

conforming or nonconforming status of the building or structure within which it is housed.

4. Loss of Nonconforming Shoreline Use Status.
   a. Discontinuance. If a nonconforming shoreline use of a structure or non-structural exterior site development is discontinued for a period of 12 months with the intention of abandoning that use, any subsequent use shall thereafter conform to the shoreline use requirements of LUC Chart 20.25E.030. Discontinuance of a nonconforming shoreline use of a structure or non-structural exterior site development for a period of 12 months or greater constitutes prima facie evidence of an intention to abandon.
   b. Accidental Destruction. When a structure or non-structural exterior site development containing a nonconforming shoreline use is damaged by fire or other causes beyond the control of the owner, the use may be re-established. The nonconforming shoreline development accommodating the use may be repaired and/or reconstructed in accordance with paragraph G.5 of this section.
   c. Relinquishment. A nonconforming shoreline use is relinquished when the nonconforming shoreline use is replaced with an allowed shoreline use pursuant to LUC Chart 20.25E.030. Upon relinquishment, the nonconforming shoreline use rights no longer apply and the nonconforming shoreline use may not be re-established.

G. Regulations Applicable to Nonconforming Shoreline Development.

1. Nonconforming Shoreline Development May Remain. Nonconforming shoreline development may remain unless specifically limited by the terms of this section.
2. Permitted Alterations to Nonconforming Shoreline Development. Nonconforming shoreline development may be altered; provided, that the nonconforming shoreline development conforms to the requirements of this section.
   a. Three-Year Period. Alterations made within a three-year period will be viewed as a single action for the purposes of determining whether the provisions of this paragraph G.2 must be met.
   b. Value of Alterations. The value of alterations is determined by the Director based on the entire project and not individual permits.
   c. Limitations on Alterations. Alterations may be approved only if consistent with the following limitations:
      i. No increase in structure footprint shall be permitted.
      ii. No increase in net square footage shall be permitted.
      iii. No increase in parking areas or other non-structural exterior site development shall be permitted.

iv. No footprint associated with a nonconforming shoreline development shall be moved any distance, unless the movement reduces nonconformities to the SMP, and ecological functions are restored in the areas vacated pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing).

d. Proportional Compliance for Alterations. A nonconforming shoreline development may be altered consistent with the requirements set forth below:

i. Threshold Triggering Required Improvements. The standards of this paragraph shall be met when the value of the proposed alterations to the nonconforming shoreline development exceeds 50% of the replacement value of the structure or non-structural exterior site development that is being altered.

ii. Exemptions from the Calculation of Replacement Value. The alterations and improvements listed in paragraph G.4 of this section do not count toward the calculation of replacement value thresholds identified in paragraph E of this section.

e. Required Improvements associated with Alterations. When alterations meet the threshold in paragraph G.2.d of this section, nonconforming shoreline development shall be brought toward compliance in the following areas:

i. Accessory Parking, Loading Space and Maintenance Access requirements as set forth in LUC 20.25E.060.H.

ii. Public Access requirements as set forth in LUC 20.25E.060.I.

iii. Water quality, stormwater, and nonpoint pollution requirements as set forth in LUC 20.25E.060.L.

f. Timing and Cost of Required Improvements.

i. Required improvements shall be made as part of the alteration that triggered the required improvements;

ii. The value of required improvements shall be limited to 20 percent of the value of the proposed alteration. The applicant shall submit evidence as required by the Director that shows the value of proposed improvements associated with any alteration; and

iii. Required improvements shall be made in order of priority listed in paragraph G.2.e of this section unless a deviation in priority order is approved by the Director as necessary to accommodate a function that is an essential component of the nonconforming shoreline development.

3. Replacement of Shoreline Nonconforming Development allowed only in Office (O) and in Office and Limited Business (OLB) Land Use Districts pursuant to LUC 20.10.440. Nonconforming shoreline development in the O or OLB Land Use Districts may be replaced; provided, that the replacement conforms to the limitations and proportional compliance requirements contained in paragraphs G.3.c and G.3.d of this section.

a. Three-Year Period. Improvements made within a three-year period will be viewed as a single action for the purposes of determining whether the provisions of this paragraph G.3 must be met.

b. Value of Replacement. The value of a replacement is determined by the Director based on the entire project and not individual permits.

c. Limitations on Replacements. Replacement of a nonconforming shoreline development in the O or OLB Land Use Districts may be approved only if consistent with the following limitations:

   i. Replacement structures shall only be permitted to accommodate a shoreline use allowed pursuant to LUC Chart 20.25E.030.

   ii. No increase in structure footprint shall be permitted.

   iii. No increase in net square footage shall be permitted.

   iv. No increase in parking areas or other non-structural development shall be permitted.

   v. The area of the replacement structure footprint may be moved to a less sensitive portion of the site if the movement reduces nonconformities to the SMP or identified critical areas, and shoreline vegetation or critical area functions are restored in the areas vacated pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing).

d. Proportional Compliance for Replacements. A nonconforming shoreline development may be replaced consistent with the requirements set forth below:

   i. Threshold Triggering Required Improvements. The standards of this paragraph G.3.d shall be met when the value of the proposed replacement of the nonconforming shoreline development exceeds 100% of the replacement value of the structure or non-structural exterior site development that is being replaced, or any improvements that remove and reconstruct an individual structure regardless of cost.

   ii. Exemptions from the Calculation of Replacement Value. The alterations and improvements listed in LUC 20.25E.040.G.4 do not count toward the calculation of replacement value thresholds identified in paragraph E of this section.

e. Required Improvements. When replacements meet the threshold in paragraph G.3.d of this section, nonconforming shoreline development shall be brought into compliance with the following provisions:

   i. Accessory Parking, Loading Space and Maintenance requirements as set forth in LUC 20.25E.060.H.

   ii. Public Access requirements as set forth in LUC 20.25E.060.I.

   iii. Water quality, stormwater, and nonpoint pollution requirements as set forth in LUC 20.25E.060.L.

f. Timing of Required Improvements. Required improvements shall be made as part of the replacement that triggered the required improvements.

4. Exemptions from the Calculation of Replacement Value. The following improvements do not count toward the calculation of replacement value thresholds identified in paragraph E of this section:

   a. Alterations required as a result of a fire prevention inspection;

   b. Alterations related to the removal of architectural barriers as required by the Americans with Disabilities Act, or the Washington State Building Code (Chapter 19.27 RCW), now or as hereafter amended;

   c. Alterations required for the seismic retrofit of existing structures;

   d. Improvements to on-site stormwater management facilities in conformance with Chapter 24.06 BCC, now or as hereafter amended);

   e. Alterations that reduce off-site impacts (including but not limited to noise, odors, dust, and other particulate emissions); and

   f. Alterations that meet LEED, Energy Star or other industry-recognized standard that results in improved mechanical system, water savings, or operational efficiency.

5. Loss of Nonconforming Shoreline Development Status.

   a. Discontinuance. If a nonconforming shoreline development is abandoned for a period of 12 months with the intention of abandoning that development, any subsequent development shall thereafter conform to this Part 20.25E LUC. Discontinuance of a nonconforming shoreline development for a period of 12 months or greater constitutes prima facie evidence of an intention to abandon.

   b. Accidental Destruction. When a nonconforming shoreline development is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen circumstances outside the control of the property owner, the structure may be repaired or reconstructed subject only to the following limitations:

      i. The nonconforming shoreline development shall be repaired or reconstructed within the footprint existing when the destruction occurred, unless the area of the structure footprint is moved to a less sensitive portion of the site, the movement reduces nonconformities to the SMP or identified critical areas, and shoreline vegetation or critical area functions are restored in the areas vacated pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing);

      ii. The repair or reconstruction is initiated within one year of the date of destruction and is diligently pursued;

iii. Under no circumstances may the reconstruction expand, enlarge, or otherwise increase the nonconformity; and,

iv. Areas of temporary construction disturbance resulting from reconstruction shall be restored pursuant to a mitigation plan approved by the Director under LUC 20.25E.060.D (Mitigation Requirements and Sequencing).

III. Development Regulations

20.25E.050 Dimensional Requirements

A. General

Chart 20.25E.050.A sets forth the dimensional requirements for each shoreline environment. Additional requirements located in the Chart of Dimensional Requirements (LUC Chart 20.20.010) also apply, except to the extent expressly stated in this section. If a number appears in a box, the dimensional requirement is subject to the special provisions contained in the corresponding Note. In the event of a conflict between the dimensional requirements of this section and the requirements of LUC Chart 20.20.010 when applied in the Shoreline Overlay District, the provisions of this section shall prevail.

Chart 20.25E.050.A Dimensional Requirements in the Shoreline Overlay District

	SHORELINE ENVIRONMENTS					
DIMENSIONAL REQUIREMENT	Aquatic (A)	Urban Conservancy (UC)	Urban Conservancy-Open Space (UC-OS)	Shoreline Residential (SR) (6)	Shoreline Residential Canal (SRC) (6)	Recreational Boating (RB)
Shoreline Structure Setback (1)(5)	N/A	50’	50’	50 ’	50 ’	25’
Maximum Shoreline Lot Coverage by Structures (percent)	N/A	25% (2) (5)	5% (2) (5)	N/A (3)	N/A (3)	N/A (3)
Maximum Shoreline Building Height	N/A	35’	35’	35’	35’	35’
Maximum Shoreline Impervious Surface (percent)	N/A	35%	10%	50% (4)	50/55/80% (4)	65%

Notes: Dimensional Requirements in the Shoreline Overlay District

(1) Phantom Lake and Lower Kelsey Creek are regulated pursuant to the substantive requirements contained in Part 20.25H LUC, Critical Areas Overlay District.

(2) If a site in a non-residential shoreline environment is developed with a single-family dwelling, the allowed maximum lot coverage shall be that established for the underlying land use district. (Refer to LUC Chart 20.20.010 Dimensional Requirements, Residential).

(3) The allowed maximum lot coverage by structures in the Shoreline Residential, Shoreline Residential Canal, and Recreational Boating environments shall not exceed the maximum lot coverage by structure established for the underlying land use district. (Refer to LUC Chart 20.20.010 Dimensional Requirements, Residential, now or as hereafter amended).

(4) The allowed amount of maximum impervious surface in the Shoreline Residential and Shoreline Residential Canal environments shall not exceed the maximum impervious surface established for the underlying residential land use district. (Refer to Chart 20.20.010 Dimensional Requirements, Residential).

(5) To measure lot coverage, refer to LUC Chart 20.20.010, footnotes 13 and 14.

(6) The Shoreline Structure Setback is modified to account for encroachments by existing structures under the Footprint Exception of LUC 20.25E.065.E.1.c and may also be reduced to a minimum of 25 feet provided that impacts to existing shoreline vegetation are mitigated pursuant to the Vegetation Conservation requirements contained in LUC 20.25E.065.F. A one-time expansion of up to 200 square feet is allowed for existing structures within 25 feet of ordinary high water mark pursuant to the Residential Structure Setback Allowances contained in LUC 20.25E.065.E.2. Further shoreline setback encroachments may only be allowed through approval of a Shoreline Variance (refer to LUC 20.25E.090.

B. Shoreline Setbacks – General.

1. Applicability. This section establishes general requirements that apply to shoreline structure setbacks in all shoreline environments. Additional requirements contained in LUC 20.25E.070, Specific Use Regulations, also apply. For information regarding setbacks for residential uses, refer to LUC 20.25E.065.E.
2. Measurement of Shoreline Structure Setback. The shoreline structure setback shall be measured landward from ordinary high water mark on a horizontal plane and to a point that results in the required dimension. On Lake Sammamish, the shoreline structure setback may be measured landward from elevation 31.2 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or

from that point identified in a site-specific ordinary high water mark determination prepared by a qualified professional. Structure setbacks on Phantom Lake and Lower Kelsey Creek shall be established in conformance with Part 20.25H LUC (Critical Areas Overlay District). If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback than required under this section.

3. Shoreline Setback Modifications. In non-residential shoreline environments, the shoreline setback dimensions contained in LUC Chart 20.25E.050.A may be modified using the Special Shoreline Report Process (refer to LUC 20.25E.160.E), or through approval of a Shoreline Variance (refer to LUC 20.25E.190). In the shoreline residential and shoreline residential canal shoreline environments, the shoreline setback dimension contained in LUC Chart 20.25E.050.A may be modified pursuant to the requirements contained in LUC 20.25E.065.C and E.. Additional development within the shoreline setback may be allowed pursuant to the specific use and shoreline modification regulations in LUC 20.25E.065, 20.25E.070 and 20.25.E.080. On Phantom Lake and Lower Kelsey Creek, any allowed modifications to the setback shall be in conformance with LUC 20.25H.035 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP).

C. Shoreline Impervious Surfaces.

1. Impervious surfaces in the Shoreline Overlay District are governed by LUC 20.20.460 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP).

2. Modifications to Impervious Surface Limits. In non-residential shoreline environments, the impervious surface limits contained in LUC Chart 20.25E.050.A may be modified using the Special Shoreline Report Process (refer to LUC 20.25E.160.E), or through approval of a Shoreline Variance (refer to LUC 20.25E.190). In the shoreline residential and shoreline residential canal shoreline environments, the impervious surface limits contained in LUC Chart 20.25E.050.A may only be modified through approval of a Shoreline Variance (refer to 20.25E.190).

D. Maximum Building Height in the Shoreline.

1. Calculating Maximum Building Height. Building height in the Shoreline Overlay District is measured in accordance with the definition of height as defined in LUC 20.25E.280.

2. Modification. Maximum building height may only be modified through the Shoreline Variance process (Refer to LUC 20.25E.190).

20.25E.060 General Requirements Applicable to all Shoreline Development and Uses

A. Applicability.

This section contains development requirements and standards that apply to all development and uses within the Shoreline Overlay District. Additionally, the general development requirements and standards governing site development of property city-wide, contained in Chapter 20.20 LUC apply, except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.c. All other applicable City of Bellevue codes, ordinances, and development and engineering standards shall also apply to development and uses in the Shoreline Overlay District. However, Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.

B. No Net Loss of Ecological Function.

1. No Net Loss Required. Shoreline uses and development are required to ensure no net loss of ecological functions and processes.
2. Rebuttable Presumption—Standards Presumed to Meet No Net Loss. For development projects that comply with all of the applicable standards, including mitigation required by LUC 20.25E.050 through 20.25E.080, a rebuttable presumption exists that the development project satisfies the no net loss of ecological function standard contained in paragraph B.1 of this section. When a development project satisfies the presumption, no additional mitigation analysis shall be required, provided that the Director may require mitigation analysis and additional mitigation, if the Director determines that the specific performance standards or required mitigation did not contemplate unforeseeable impacts to shoreline ecological functions.
3. When Analysis of No Net Loss is Required. Analysis of no net loss of ecological functions is required as part of an application for a Shoreline Conditional Use Permit (LUC 20.25E.180), a Shoreline Variance (LUC 20.25E.190), and as part of a Shoreline Special Report (LUC 20.25E.160), or as required for a mitigation plan. The presumption described in paragraph B.2 of this section does not apply when analysis is required under this paragraph.

C. Technical Feasibility Analysis.

1. This paragraph C applies to new or expanded facilities, systems, techniques, or measures identified as allowed when there is no other technically feasible alternative (the Shoreline Use Charts in LUC 20.25E.030 identify when a technical feasibility analysis is required). This paragraph does not apply to residential development governed pursuant to LUC 20.25E.065. The determination of whether an alternative is technically feasible shall be made by the Director as part of the decision on the underlying permit or approval. If a technical feasibility analysis is also required for critical areas located in the Shoreline Overlay District, a single report addressing the criteria contained in LUC 20.25H.055.C.2, and the

criteria stated below may be submitted. The applicant shall provide a report prepared by a qualified professional addressing the following locational criteria:

a. Existing site conditions, including, but not limited to, topography and the proposed location of the facility, system, technique, or measure in relation to the ordinary high water mark and any critical areas on the site;

b. The location of existing infrastructure necessary to support the proposed facility, system, technique, or measure;

c. The function or objective of the proposed facility, system, technique, or measure;

d. The level of risk to a primary structure, public facility, or public use structure or area presented by shoreline erosion, and the ability of the proposed facility, system, technique, or measure to mitigate that risk;

e. Whether the cost of avoiding the disturbance of the shoreline area is disproportionate as compared to the environmental impact of proposed disturbance, including any continued impacts on functions and values over time; and

f. The ability of both permanent and temporary construction disturbance to be mitigated.

2. If the applicant demonstrates that no technically feasible alternative exists to provide the function or objective of the proposed facility, system, technique, or measure with less impact on the shoreline setback, then the applicant shall comply with the following design criteria; except that if specific standards are provided in LUC 20.25E.070 or LUC 20.25E.080 for the allowed use, the specific standards shall apply.

a. Design shall result in the least impacts to shoreline functions and values;

b. Disturbance, including the disturbance of vegetation and soils, shall be minimized;

c. Disturbance shall not occur in habitat used for salmonids rearing or spawning or by any species of local importance unless no other technically feasible location exists;

d. All work shall be consistent with the SMP and with applicable City of Bellevue Codes and standards; and,

e. Areas of new permanent disturbance and all areas of temporary construction disturbance shall be mitigated or restored pursuant to a mitigation restoration plan meeting the requirements of paragraph D of this section and evaluated consistent with the no net loss standard in paragraph B of this section.

D. Mitigation Requirements and Sequencing.

1. Mitigation Plans – When Required: Mitigation plans are required as part of an application for a Shoreline Conditional Use (LUC 20.25E.180), a Shoreline Variance (LUC 20.25E.190), a Special Shorelines Report or pursuant to specific use and shoreline modification regulations in LUC 20.25E.065, 20.25E.070 and 20.25E.080. Applicants shall submit as part of the application package, a mitigation plan meeting the performance criteria of this paragraph D. Mitigation plans shall be approved as part of the permit required for the underlying project. To the extent applicable, analysis of environmental impacts and identification of required mitigation shall be consistent with the rules implementing the State Environmental Policy Act (refer to WAC 197-11, Bellevue Environmental Procedures Code Chapter 22.02 BCC, and LUC 20.35.200 through 250).
2. Mitigation Sequencing Analysis Required. When impacts to shoreline ecological functions are identified as part of a proposed action allowed through the SMP, and to assure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to shoreline ecological functions or processes, as part of the required mitigation plan the applicant shall demonstrate that mitigation sequencing has been applied through a mitigation analysis that includes the following elements:
    a. Mitigation sequencing. The applicant shall demonstrate compliance with the mitigation sequencing guidelines in the following order of preference:
        i. Avoiding the impact altogether by not taking a certain action or parts of an action;
        ii. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing to avoid or reduce impacts;
        iii. Performing the following types of mitigation (listed in order of preference):
            (1) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
            (2) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
            (3) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
            (4) Monitoring the hazard or other required mitigation and taking remedial action when necessary.
    b. Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard and mitigation sequencing guidelines.
3. Mitigation Location Preference. When mitigation is required, the applicant shall

demonstrate proposed mitigation has been located in the following order of preference:

a. On-site, through direct replacement of lost shoreline functions;

b. On-site, through enhancement of existing shoreline functions and values; or,

c. Off-site, through replacement or enhancement, in the Shoreline Overlay District, subject to the following limitations:

i. Off-site mitigation – Private Project: Off-site mitigation for private projects shall only be permitted through a Special Shorelines Report. Applicants who obtain approval for use of an off-site mitigation location must record the final mitigation requirements and corresponding conditions, including maintenance and monitoring of the mitigation, in a form acceptable to the City Attorney, and recorded with the with the King County Division of Records and Elections or its successor agency.

ii. Off-site mitigation – Public Project. Off-site mitigation for public projects shall only be permitted through a Special Shoreline Report. Approval for use of off-site mitigation must show that the proposal implements or funds components of the Shoreline Restoration Element of the SMP at a scale commensurate to the impacts identified, or that the proposal provides off-site mitigation for impacts of a public project on shoreline ecological function by providing a commensurate replacement or enhancement of shoreline resources.

4. Shoreline Mitigation Ratio. Unless specified by another section of this SMP, impacted shoreline functions shall be replaced at a ratio of 1:1, and impacted area shall be replaced at a ratio of 1:1.

5. Mitigation Plan Requirements. The applicant shall submit a mitigation plan for approval as part of the review of the underlying permit. Where standard mitigation requirements or templates have been approved by the Director for the proposal in question, those requirements or templates may be followed without need for submission of an individual mitigation plan. These general requirements shall be modified for areas of temporary construction disturbance included as part of an allowed use or activity so long as the requirements of paragraph D.5.h of this section are met.

a. Plan Phases. Where a project requires mitigation, the mitigation plan required for the proposal may be submitted in phases. A conceptual plan shall be submitted as part of the administrative review and approved with the decision on the proposal. A detailed plan shall be approved prior to or with approval of the first permit or other approval required to perform work associated with the proposal.

b. Mitigation Plan Details. The plan shall be prepared by a qualified professional and shall at minimum include the content identified in this

paragraph and other applicable sections of the SMP. The Director may waive any of the plan requirements where, in the Director's discretion, the information is not necessary to develop a mitigation plan that addresses the impacts of the proposed action.

i. A written report identifying environmental goals and objectives of the mitigation proposed, based on replacing or restoring the shoreline ecological functions impacted by the proposal;

ii. Measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation plan have been successfully attained and whether or not the requirements of this part have been met; and

iii. Written specifications and descriptions of the mitigation proposed.

(1) When the mitigation plan is submitted as a single-phase, or for the detailed plan phase when submitted to implement a conceptual plan, these written specifications shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(2) When the mitigation plan is submitted in phases pursuant to paragraph D.5.a of this section, the written specifications may be general in nature for the conceptual phase, including general identification of areas for work, planting species, size and number. The more precise details shall be provided in subsequent detailed plan phases.

c. Timing of Mitigation Installation. Unless a different time period is established by the Director in the approval for a specific project, all work required in a mitigation plan shall be completed prior to final inspection or issuance of a temporary certificate of occupancy or certificate of occupancy, as applicable, for the development.

d. Monitoring Program. The plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than one year for residential projects and five years for non-residential projects. The required monitoring period for a plan involving restoration only shall be reduced to a period of not less than three years for non-residential projects.

e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met and such failure would result in significant impact shoreline ecological functions.

f. Assurance Devices. The Director may require the applicant provide assurance devices in compliance with LUC 20.25E.250.B and 20.40.490 to ensure that the approved mitigation plan, monitoring program, contingency plan, and any conditions of approval are fully implemented.

h. Restoration for Areas of Temporary Construction Disturbance. The Director may impose conditions for the restoration of areas of temporary construction disturbance included as part of an approved permit or use or development allowed under the SMP, without requiring a mitigation plan and other measures described in this section, so long as the following requirements are satisfied:

i. All areas of temporary construction disturbance shall be identified in the plans approved with the permit or allowed use or development and shall be the minimum necessary to allow the completion of the approved use or development. For uses and development involving the repair or renovation of existing structures that can be accessed outside of the shoreline setback, the minimum necessary area of temporary construction disturbance shall be no greater than 10 feet around the perimeter of the existing structure. Proposals involving areas of greater disturbance shall require a full restoration plan under this paragraph D. The Director may impose conditions requiring areas of temporary construction disturbance to be marked in the field through the use of markers, fencing, or other means;

ii. The condition of the areas of temporary construction disturbance existing prior to undertaking any development activity shall be documented with the proposal. The Director may require photographic evidence, site plans showing the size, location and type of existing vegetation, or other materials to document existing conditions;

iii. The Director shall impose a condition that the area be restored to existing conditions prior to final approval of the work performed, or within 30 days following completion of the work if no final approval is required; and

iv. The Director shall impose a condition requiring monitoring of the restored area and additional restoration to achieve existing conditions, consistent with paragraph D of this section; provided that the Director may reduce the monitoring to not less than one year from completion of the original restoration.

E. Requirements Applicable to Development and Uses in the Shoreline Overlay District.

All development proposals in the Shoreline Overlay District shall comply with the following requirements:

1. Disruption of shoreline resources, including land disturbing activity such as clearing and grading and tree removal, shall be the minimum necessary to accommodate the permitted use or development.
2. New development should be located and designed to avoid the need for shoreline stabilization.
3. All new development shall comply with applicable Bellevue policies, codes and requirements, including but not limited to, Chapter 24.06 BCC (Storm and Surface Water Utility Code), the Storm and Surface Water Engineering Standards (Jan. 2011), now or hereafter amended, Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards, now or as hereafter amended. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.
4. Repair and Maintenance and/or Construction Staging.
    a. Work shall be consistent with all applicable City of Bellevue codes and standards; and
    b. Areas of temporary construction disturbance associated with the work shall be restored to pre-project conditions, pursuant to a restoration plan meeting the requirements of paragraph D of this section.
5. Project Segmentation – When Prohibited. A single project, shall not be divided into segments or characterized as routine maintenance and repair or a minor expansion to avoid compliance with the procedural or substantive requirements of the SMP.

F. Archaeological and Historic Resources.

1. Applicability. The following provisions apply to archeological and historic resources that are recorded at the Washington State Department of Archaeology and Historic Preservation, identified by the City of Bellevue, or that have been inadvertently uncovered. Archaeological sites located in the Shoreline Overlay District are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Records). Development and uses that may impact archaeological sites located within the Shoreline Overlay District shall comply with the SMP and Chapter 25-48 WAC.
2. Performance Standards. When developing sites containing recorded archeological or historic resources or when such resources are inadvertently uncovered in Shoreline Overlay District, developers shall:
    a. Immediately stop work and notify the City of Bellevue, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological or historic resources are uncovered during excavation.
    b. Any development permits issued in areas that contain documented archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

G. Critical Areas in the Shoreline Overlay District.

Critical areas in the Shoreline Overlay District shall be regulated in accordance with Part 20.25H LUC (Critical Areas Overlay District (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP). In the event of a conflict between Part 20.25H LUC and the SMP, the provision providing the greatest protection to critical areas shall prevail, consistent with LUC 20.25E.010.C.1.b.ii, unless otherwise described in the applicable provision.

H. Accessory Parking, Loading Space, and Maintenance Access.

1. Applicability. This section applies to development of accessory parking, loading space, and maintenance access within the Shoreline Overlay District. The provisions of LUC 20.20.590 also apply, except as they conflict with paragraph H of this section. The requirements of this section do not apply to parking that is accessory to a single-family use.
2. When Allowed. Parking, loading space, and maintenance access is allowed in the Shoreline Overlay District only when accessory to a specific permitted use; otherwise these uses are prohibited in the Shoreline Overlay District.
3. Where Allowed. Accessory parking, loading space, and maintenance access are permitted within the dimensions of the shoreline setback or vegetation conservation area (refer to LUC 20.25E.060.K) only if there is no technically feasible alternative, pursuant to the requirements of LUC 20.25E.060.C. New accessory parking, loading space, and maintenance access is prohibited in the following locations:
    a. On any over-water structure; or
    b. In a shoreline wetland or habitat associated with species of local importance. (Refer to LUC 20.25H.150).
4. Performance Standards.
    a. Development in the Shoreline Overlay District. Development of accessory parking, loading space, and maintenance access anywhere within the Shoreline Overlay District shall comply with the following performance standards.
        i. Location. Accessory parking, loading space, and maintenance access should be located outside the Shoreline Overlay District when functional objectives for the allowed shoreline use can be met.

ii. Size. Area devoted to accessory parking, loading space, and maintenance access in the Shoreline Overlay District shall be the minimum necessary to support the allowed shoreline use.

iii. Storm and Surface Water

(1) Surface water runoff from accessory parking and loading spaces shall be prevented from contaminating water bodies and endangering aquatic life by using best management practices as set forth in Chapter 24.06 BCC (Storm and Surface Water Utility Code), and the City's Storm and Surface Water Engineering Design Standards (2011); now or hereafter amended.

(2) Low impact development techniques and natural drainage practices should be incorporated into new and redeveloped accessory parking and areas dedicated to loading space and maintenance access when feasible (refer to the City of Bellevue Storm and Surface Water Engineering Standards (2011), now or hereafter amended).

iv. Pedestrian Circulation from Parking Areas. Accessory parking for shoreline uses shall provide safe and convenient pedestrian circulation within the parking area and to the specific shoreline use that it serves. Conflicts between vehicles and pedestrians using public access facilities should be avoided to the greatest extent feasible.

v. Public Access and View Preservation. Any accessory parking, loading space, and maintenance access shall be designed to avoid impacts to public access, and views to the shoreline and the water from public rights-of-way, parks and public access.

b. Development in the Shoreline Setback or Vegetation Conservation Area. When no other feasible alternative is available, development of accessory parking, loading space, and maintenance access in the shoreline setback or vegetation conservation area within the Shoreline Overlay District may be permitted only as follows.

i. For Accessibility. Accessory parking and loading areas may be approved when necessary to accommodate functional access by handicapped and physically impaired persons to the uses served by the parking or loading areas;

ii. For Recreation Uses. Accessory parking and loading areas may be approved when necessary to serve a functional need associated with a water-dependent recreation use;

iii. For Utility Facilities. Maintenance access may be approved when necessary to serve a functional need associated with a water-dependent component of a utility facility.

iv. For Short Term Loading. Short-term loading space accessory to a marina, yacht club, or community club when managed through a

parking management plan to ensure loading space is occupied only so long as is necessary to serve a water dependent recreation use.

v. Accessory parking, loading space, and maintenance access permitted by this section shall comply with the performance standards contained in paragraph H.4 of this section.

vi. Conditions. The Director may impose conditions on the location, design, use, or operation of the parking to mitigate identified impacts to shoreline functions and values associated with accessory parking, loading space or maintenance access areas to ensure no net loss of shoreline ecological functions, and to mitigate impacts on shoreline access.

I. Public Access.

1. Purpose and Scope. The purpose of this section is to protect, preserve, and enhance the public's opportunity to enjoy the physical and aesthetic qualities, including views, of the shoreline and water through public access standards applicable to public transportation, public utility and public parks projects. Residential development is not required to provide public access. Private recreation uses are not required to provide public access.

2. When Required. All proposals for new development, reconstruction, replacement, or expansion of public transportation, utilities and parks projects that propose new uses or the reconstruction or replacement of structures supporting existing uses shall provide public access, or when appropriate, visual access in accordance with the public access requirements of the SMP.

3. When Not Required.

   a. Applications for the following development or uses are not required to comply with paragraph I of this section:

      i. Fully buried utility uses; or

      ii. When an applicant demonstrates that one or more of the following conditions apply:
      (1) Unavoidable health or safety hazards to the public exist that could not be prevented by any practical means; or
      (2) Inherent security requirements of the use could not be satisfied through the provision of alternatives identified in paragraph I.6 of this section; or
      (3) The cost to provide the public access, easements, alternative public access, or mitigation of the impacts from the public access would be unreasonably disproportionate to the total long-term cost of the proposed development; or
      (4) Significant environmental impacts would result from the public access that could not be mitigated

b. Limitation on Exempting Applications from Requirements. Before determining that the public access provisions of this section are not required pursuant to paragraph I.3.a.ii of this section, the Director must determine that all reasonable alternatives have been exhausted, including:
   i. Regulating public access by such means as maintaining a gate or limiting hours of access;
   ii. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and
   iii. Providing for access at a site geographically separated from the project such as street end, vista, viewing platform, or trail system as described in paragraph I.6 of this section.

4. Performance Standards. The following performance standards apply when siting and designing public access locations and improvements and, to the extent applicable, alternative visual access.

   a. General. Design of public access locations and public access improvements shall provide opportunities for the public to reach, touch, and enjoy the water's edge and to view the water and the shoreline from adjacent locations. Public access improvements shall be located as close horizontally and vertically to the shoreline's edge as feasible, and consistent with the terms of LUC 20.25E.070.C (Recreation); provided that public access does not adversely affect sensitive ecological features or result in a measureable net loss of shoreline ecological functions.

   b. Street Ends and Public Rights of Way. Public access provided by street ends, above ground public utilities, and rights-of-way located within the Shoreline Overlay District shall not be diminished by any public or private development or use consistent with RCW 35.79.035.

   c. Relation to Other Facilities. Public access improvements shall be located to provide integrated connections to non-shoreline access points, trail connections, public streets and rights-of-way, and other public areas and uses.

   d. Accessibility. Public access improvements shall include accommodations for handicapped and physically impaired persons, where feasible.

   e. Trails. Trails within shoreline critical areas and shoreline vegetation conservation areas shall comply with LUC 20.25H.055.C.3.g (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP).

   f. Overwater Structures associated with Projects that Require Public Access. Public access on over-water structures located on public aquatic lands shall be provided and may include common use of walkway areas. Moorage facilities with the capacity to serve ten (10) or more vessels shall provide a publicly accessible area of at least 10 percent of the total square footage of

the overwater structure, but not less than 200 square feet at or near the end of the structure. Marinas with the capacity to serve 20 or more vessels may restrict access to specific moorage areas for security purposes as long as an area of at least 10 percent of the overwater structure is available for public access and a public access area of at least 200 square feet is provided at or near the end of the structure. Public access areas may be used in common by other users, but must provide generally unobstructed views of the water.

g. Resolution of Different Standards. Where city park, transportation, or utility project Master Plans specify public access locations and improvements that differ from those in paragraph I.4 of this section, the public access locations and improvements that are adopted in a Council-approved Master Plan, shall control.

h. Privacy. Design of public access improvements shall minimize privacy intrusions on adjacent uses by avoiding locations adjacent to residential windows and/or outdoor private residential open spaces, or by screening or other separation techniques.

5. Modification of Public Access Requirements.

   a. The Director may require or grant a modification to the provisions of paragraph I of this section as a component of the shoreline review process for a development or use that is required to provide public access if:

      i. The presence of shoreline critical areas or critical areas would preclude construction of the required improvement;

      ii. The improvement would interfere with essential operations of the proposed use;

      iii. The property contains unusual site constraints, such as size, configuration, topography, or location, not created by the applicant, that would preclude construction of the required improvement;

      iv. The public access would create unavoidable health or safety hazards to the public;

      v. Significant environmental impacts would result from the public access that could not be mitigated; or

      vi. The cost of providing the public access improvement, or mitigating the impacts associated with the improvement, would be unreasonably disproportionate to the total long-term development and operational cost over the life span of the proposed development or use.

   b. If a modification is granted, the Director may require that an alternate method be used to provide view access pursuant to paragraph I.6 of this section.

c. The Director may condition a modification request to ensure there is no net loss of shoreline ecological functions.

6. Alternatives to Providing On-site Public Access. The Director may approve a request to provide visual access opportunities at a location not directly adjacent to the water, in lieu of the physical public access required pursuant to paragraph I of this section, if the applicant demonstrates that the:

   a. Unobstructed views will be provided from a viewpoint, viewing platform or tower, interpretive center, or other area with means to view public shoreline and/or waters;

   b. The alternative visual access shall be located to provide integrated connections to non-shoreline access points, trail connections, public streets and rights-of-way, and other public areas and uses; and

   c. A public benefit will be derived from development of the alternative visual access opportunity in the proposed location.

7. Accessibility of Public Access Improvements.

   a. Maintenance of Public Access Improvement Required. Public access improvements shall be maintained over the life of the development or use. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

   b. Maintenance Responsibility. Maintenance of public access improvements shall be the responsibility of the owner unless otherwise assigned through a formal recorded agreement.

   c. Hours of Access. Public access improvements shall be available to the public 24 hours per day, unless alternate hours are approved though the required shoreline review process for the project. Temporary closures will be allowed as necessary for maintenance with prior notification to the City.

   d. Signage Required. The public access improvement must be signed to identify the improvement as available for public use and indicate the hours of access consistent with paragraph I.7.c of this section. Signs shall be installed and maintained by the property owner. Signs shall conform to the City of Bellevue Parks Department's standards for directional signs, and shall be posted in conspicuous locations at public access sites and at the nearest connection to any off-site public rights-of-way.

8. Modifications to Approved Public Access. Requests to modify approved public access or alternative visual access shall be reviewed through the shoreline review process applicable to the original project that required the public access.

J. Signage in the Shoreline.

1. Applicability. In addition to the requirements set forth in Chapter 22B.10 BCC (For further information about the City wide requirements refer to the City of Bellevue Sign Code), all applications to erect signage in the Shoreline Overlay District shall comply with this section.

2. Shoreline Sign Performance Standards. In addition to the city-wide sign regulations codified in Chapter 22B.10 BCC, the following provisions apply to signs in the Shoreline Overlay District:

    a. Signs shall comply with the shoreline structure setback standards in LUC Chart 20.25E.050.A; except interpretative or directional signs for public access or recreation amenities, or to protect the public health, safety, and welfare, are allowed.
    b. Floating billboards are prohibited.
    c. Signage shall not be permitted to be constructed over water, except:
        i. For water-dependant uses providing gas and oil sales to boats where the facility is accessible from the water;
            (1) One sign, not exceeding 20 square feet per sign face is permitted. Internally-illuminated signs are not permitted. The Director may approve low-wattage external light sources that are not visible from neighboring properties or directed towards the water.
            (2) Signs shall be mounted to a pier or wall-mounted. The maximum height of a free-standing sign mounted to a pier is five feet above the surface of the pier. A wall-mounted sign shall not project above the roofline of the building to which it is mounted.
        ii. Navigational signs, directional signs, and signs displaying a public service message;
        iii. Interpretative signs for public access and recreation amenities; and
        iv. Building addresses mounted flush to the end of a pier.
    d. Signs within the Shoreline Overlay District, except directional, address, and interpretive signs, shall be oriented away from, or screened from public shoreline areas and the water body and shall minimize glare into fish and wildlife habitats, buffers, shoreline views, and public access areas.
    e. The maximum height of a free standing sign within the Shoreline Overlay District is five feet.

K. Vegetation Conservation and Landscape Standards.

1. Purpose and Scope. Retention of significant trees and native vegetation as required by this section is necessary to maintain and protect property values, to enhance the visual appearance of the City, to preserve the natural wooded character of the Pacific Northwest, to promote use of natural systems, to reduce the impacts of development on the storm drainage system, water resources and shoreline ecological functions, and to provide a better transition between the various land uses permitted in the City. This section provides standards for vegetation conservation within established vegetation conservation areas and

areas outside of the vegetation conservation area but within the Shoreline Overlay District.

2. Applicability. The requirements of this section shall be imposed any time a permit, approval, or review includes land-disturbing activities as defined in BCC 23.76.030 (Clearing and Grading Code), or land development including subdivision, short subdivisions, or planned unit developments, a change in lot coverage, or impervious surface, or a change in the area devoted to parking and circulation is required by the Bellevue City Code. Additional standards apply for critical areas, see LUC 20.25H.055. The requirements of this section do not apply to residential development located in the Shoreline Residential and Shoreline Residential Canal environments. Refer to LUC 20.25E.065.F.

3. Required Review. The Director shall review the proposed removal of significant trees with each application listed within paragraph K.2 of this section.

4. Modification of Standards. The vegetation conservation requirements contained in this section may be modified using the Special Shoreline Report Process (refer to LUC 20.25E.160.E). The Special Shorelines Report shall demonstrate that the proposal with the requested setback reduction leads to equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements. For the Urban Conservancy and Urban Conservancy Open Space Environments the vegetation conservation area dimension may not be reduced to less than 25 feet.

5. Vegetation Conservation Area Dimensions. For shoreline environments other than Shoreline Residential and Recreational Boating, the dimension of the shoreline vegetation conservation area for the corresponding shoreline environment designation is as follows:

Vegetation Conservation Area Dimensions

Shoreline Environment	Distance Measured from OHWM
Urban Conservancy	50 feet
Urban Conservancy Open-Space	50 feet
Recreational Boating	N/A

6. Vegetation Conservation Area Landscape Standards. Upon development or redevelopment within the Urban Conservancy and Urban Conservancy Open Space Environments, the full vegetation conservation area shall be provided with native vegetation as part of the development proposal, except that those portions of the vegetation conservation area where water-dependent uses are located may be developed in accordance with the specific use provisions of LUC 20.25E.070.

7. Tree Retention and Native Vegetation Standards in the Shoreline Vegetation Conservation Area. Within the shoreline vegetation conservation area, all native vegetation as defined in the City of Bellevue Shoreline Handbook [To Be

Developed], now or hereafter amended, and existing significant trees shall be retained, provided that the trees are determined to be healthy and the trees can be safely retained consistent with the proposed development activity. Any removal of significant trees or native vegetation shall be in compliance with this section.

8. Replanting Requirements in the Shoreline Vegetation Conservation Area. When vegetation removal is allowed, all significant trees removed within the vegetation conservation area shall be replaced at a ratio of 3:1 with a minimum 5 gallon or 2 inch caliper size for replacement plantings. Native vegetation other than trees shall be replaced at a spatial ratio of 1:1 to replicate the structural habitat and ecological functions provided by native species.

9. Tree Retention Standards outside of the Shoreline Vegetation Conservation Area. Development and uses located outside of the shoreline vegetation conservation area are shall be regulated pursuant to the city-wide tree preservation standards in LUC 20.20.900 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP. Additional standards may apply for critical areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

10. Landscape Development Standards. Marinas, Community Clubs, Yacht Clubs, Multifamily, and other commercial or high intensity uses shall be regulated pursuant to the city-wide district specific landscape development standards in LUC 20.20.520 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP.

11. Tree Protection Required. The applicant shall use tree protection techniques approved by the Director during land-disturbing activities and construction to protect trees from adverse impacts related to land-disturbing activities, and provide for the continual healthy life of retained significant trees.

12. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features developed prior to [insert effective date ordinance], in the shoreline vegetation conservation area may be continued in accordance with this section. For purposes of this section, "routine maintenance" includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this subsection, "landscape features" refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species.

13. Removal of Noxious Species. Noxious species may be removed from the shoreline vegetation conservation area consistent with King County's Noxious Weed Program's best management practices for removal of noxious weeds. Exposed areas shall be replanted with native or native compatible species as necessary to control sediment runoff from areas of exposed soil. The preferred method to remove the following vegetation from the shoreline vegetation conservation area is with hand labor and hand-operated equipment:

    a. Invasive and noxious weeds;

    b. English Ivy (*Hedera helix*);

    c. Himalayan blackberry (*Rubus discolor*, *R. procerus*); and,

    d. Evergreen blackberry (*Rubus lacintaus).*

14. Hazard Trees within the Vegetation Conservation Area. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to an existing structure, public or private road or sidewalk, or other permanent improvement, is allowed; provided, that:

    a. The applicant submits a report on a form provided by the Director from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;

    b. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be converted to wildlife snags and completely removed only where no other option removes the identified hazard;

    c. All cut vegetation (tree stems, branches, etc.) may be left in vegetated areas within the shoreline vegetation conservation area or, if present, critical area or buffer, unless removal is warranted due to the potential for creating a fire hazard or for disease or pest transmittal to other healthy vegetation.

    d. The landowner shall replace any trees that are removed at a ratio of 3:1 with a minimum 5 gallon or 2 inch caliper size for replacement plantings;

    e. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts; and,

    f. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner on whose

property the tree is located prior to receiving the permits required under Chapter 23.76 BCC (Clearing and Grading Code) provided, that the landowner makes reasonable efforts to notify the City, and within 14 days following such action, the landowner shall submit a mitigation plan that demonstrates compliance with the provisions of paragraph K.14.d of this section.

15. Select Vegetation Pruning. Pruning of existing trees and vegetation within the shoreline vegetation conservation area with hand labor and hand-operated equipment in accordance with this subsection is allowed without a shoreline permit or approval. A Clearing and Grading Permit, Chapter 23.76 BCC, and/or SEPA review, Chapter 22.02 BCC, may still be required. The pruning allowed by this subsection shall be performed in accordance with guidelines established by the Director for each of the following pruning techniques: canopy reduction; canopy cleaning; canopy thinning; canopy raising or lifting; structural pruning; and canopy restoration. In no event may a tree or vegetation which is an active nest site for a species of local importance be pruned pursuant to this paragraph.

L. Water quality, stormwater, and nonpoint source pollution.

1. Purpose. The responsibility for control of water quality, storm water, and non- point source pollution is a city-wide obligation that is not borne entirely by property owners with land located within the Shoreline Overlay District. The purpose of this section is to prevent impacts to water quality and quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.
2. Applicability. The following provisions apply to all development and uses in the Shoreline Overlay District, except residential.
3. All shoreline development and uses shall comply with applicable provisions of Chapter 24.06 BCC (Storm and Surface Water Utility Code), the Storm and Surface Water Engineering Standards (2011), or as hereafter amended, Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards. The Director and the Director of Utilities may condition city approvals and permits to ensure consistency with the provisions of applicable land use, development, and utility codes and standards.
4. To avoid water quality degradation by malfunctioning or failing septic systems located within the Shoreline Overlay District, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards required by the state and local public health agencies. Property owners with septic systems must comply with WAC 24.05.160 - Operation and Maintenance.
5. Construction Materials. All structures that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality, aquatic plants, or animals. Materials used for decking or other structural components shall be approved by the Environmental Protection Agency for contact with water to avoid

discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in or above shoreline water bodies. Preservative and surface treatments are limited to products approved for use in aquatic environments, and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion. Materials used for construction of moorage facilities shall conform to the provisions of paragraphs LUC 20.25E.065.H.3.a and 20.25E.080.E.3.c.

6. The use of coal tar sealants and other sealants that contain high levels of Polycyclic Aromatic Hydrocarbons is prohibited.

20.25E.065 Residential Shoreline Regulations

A. Purpose.

This section contains development requirements and standards that apply to all development of residential uses within the Shoreline Overlay District. This section is intended to provide a consolidated approach to regulation of shoreline residential development, uses and activities. This section includes site planning requirements, general residential standards, residential dimensional requirements, shoreline vegetation conservation requirements for residential uses, residential moorage requirements, and residential nonconforming provisions.

B. General Requirements Applicable to all Residential Development.

1. Applicability. All residential use and development located in the Shoreline Overlay District shall comply with the requirements of this section LUC 20.25E.065 and all other applicable provisions of the SMP. Except to the extent expressly stated in this section and as stated in LUC 20.25E.010.C.1.c, Part 20.25E is applied as a supplement to the general development requirements and standards governing site development of property city-wide as set forth in Chapter 20.20 LUC (General Development Requirements). All other applicable City of Bellevue codes, ordinances, and development and engineering standards continue to apply to development and uses in the Shoreline Overlay District. However, Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.

2. Site Planning. New residential development (which includes expansion projects and development of vacant land and tear downs) shall comply with the following design criteria and development standards related to site planning within the Shoreline Overlay District:

   a. Shoreline Stabilization. New residential development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

   b. Parking and Driveways. New driveways and garages associated with residential development shall comply with the following applicable standards:

      i. New residential parking shall not be permitted overwater or within the shoreline structure setback.

      ii. New parking surfaces and driveway areas should be designed to incorporate Natural Drainage Practices and Low Impact Development practices where feasible. (For further information regarding city-wide requirements, refer to the Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Standards (2011), now or as hereafter amended.)

iii. Construction, maintenance, and repair of parking surfaces and driveways shall prevent surface water runoff from contaminating water bodies by using best management practices. (For further information regarding city-wide requirements, refer to the Bellevue Storm and Surface Water Utility Code, Chapter 24.06 BCC, and the Storm and Surface Water Engineering Design Standards (2011); now or as hereafter amended.)

c. Accessory Utilities. To minimize disturbance in the Shoreline Overlay District, and to reduce the impact on shoreline ecological functions, utilities serving residential development shall be consolidated when reasonable within existing or proposed roadway and driveway corridors that provide access to the development. Consolidation of utilities within the roadway and driveway corridor is not reasonable when consolidation will not achieve the intended function of the utility, or the cost of avoiding disturbance is substantially disproportionate when compared to the environmental impact of proposed disturbance. Septic systems may be removed upon connection to sanitary sewer, provided that all areas of temporary disturbance are restored to a condition equivalent to that which existed prior to undertaking the removal activity. Mitigation credits can be earned pursuant to the provisions of LUC 20.25E.065.F.8 for vegetation enhancements that will improve the pre-existing condition after the removal activity is completed.

d. Clearing and Grading.

i. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph B.2.d.(For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), Chapter 23.76 BCC (Clearing and Grading Code), and the City's engineering and clearing and grading development standards, now or as hereafter amended.)

ii. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved residential use or development and shall be the minimum necessary to support the approved residential use or development. Filling to create dry land is prohibited.

e. Critical Areas. Critical areas in the Shoreline Overlay District shall be regulated pursuant to Part 20.25H LUC, Critical Areas Overlay District (as set forth in Ordinance No. [INSERT Critical Areas Conformance Ordinance Number and date] which is incorporated by this reference into the SMP). In the event of a conflict between Part 20.25H LUC and the SMP, the provision providing the greatest protection to critical areas shall apply, consistent with LUC 20.25E.010.C.1.b.ii unless otherwise described in the applicable provision. If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback requirement than required under this section.

f. Water Quality, Stormwater, Non-Point Source Pollution.

i. Purpose. Single family residences are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. The purpose of this paragraph is to prevent impacts to water quality and quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational opportunities. The responsibility for water quality and control of stormwater and non-point source pollution is a city-wide obligation that is not borne entirely by property owners of land located within the Shoreline Overlay District.

ii. Applicability. All shoreline residential development and uses shall comply with applicable provisions of this paragraph. (For further information regarding city-wide requirements, refer to Chapter 24.06 BCC (Storm and Surface Water Utility Code), the Storm and Surface Water Engineering Design Standards (2011), Chapter 23.76 BCC (Clearing and Grading Code), and the Clearing and Grading Development Standards; now or as hereafter amended).

iii. Construction Materials. All structures that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality, aquatic plants, or animals. Materials used for decking or other structural components shall be approved by the Environmental Protection Agency for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in or above shoreline water bodies. Preservative and surface treatments are limited to products approved for use in aquatic environments, and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion. Materials used for construction of moorage facilities shall conform to the provisions of paragraphs LUC 20.25E.065.H.3.a.

iv. The use of cold tar sealants that contain Polycyclic Aromatic Hydrocarbons is prohibited.

C. Dimensional Requirements for Shoreline Residential and Shoreline Residential Canal Environments.

1. Applicability. This paragraph C applies to all new residential uses and residential uses that are proposed for modification and located in the Shoreline Residential and Shoreline Residential Canal environments. Additionally, the general development requirements and standards governing site development of property city-wide, contained in Chapter 20.20 LUC apply.

2. Shoreline Dimensional Requirements for Residential Uses. Land Use Code Chart 20.25E.065.C.2 sets forth shoreline dimensional requirements for residential uses located in the Shoreline Residential and Shoreline Residential Canal environments. Each residential structure, development, or use in the shoreline shall comply with these requirements, except as otherwise provided in this section. If a number appears in a box, the dimensional requirement is subject to the provision indicated in the corresponding Note. In the event of a conflict between the dimensional requirements of this section and the requirements of LUC Chart 20.20.010 when applied in the Shoreline Overlay District, the provisions of this section shall apply.

Chart 20.25E.065.C.2 Shoreline Dimensional Requirements for Residential Uses

	Shoreline Dimensional Requirements for Residential Uses					
SHORELINE ENVIRONMENTS	**Shoreline Structure Setback (6)(7)**	**Maximum Shoreline Lot Coverage by Structures (percent)**	**Maximum Shoreline Building Height (1)(3)**	**Maximum Impervious Surface Total 0 – 200 feet from OHWM (percent) (8)**	**Maximum Impervious Surface 0 – 10 feet from OHWM (percent) (8)**	**Maximum Impervious Surface 0 – 50 feet from OHWM (percent) (8)**
Shoreline Residential Canal (SRC)	50’	N/A(2)	35’	50%(4)	15%	50%
Shoreline Residential (SR)	50’ (5)	N/A(2)	35’	50/55/80% (4)	15%	50%

Notes: Shoreline Dimensional Requirements for Residential Uses

(1) Maximum building height may only be modified through the Shoreline Variance process (Refer to LUC 20.25E.190).

(2) General Land Use Code provisions apply. The allowed maximum lot coverage by structures in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5, R-4 and R-10 through R-30 shall not exceed 35 percent. The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-5 and R-7 shall not exceed 40 percent. (For further information regarding city-wide requirements applicable to all residential land use districts, refer to LUC Chart 20.20.010 Dimensional Requirements, Residential; now or as hereafter amended).

(3) Building height in the Shoreline Overlay District is measured in accordance with the definition of height as defined in LUC 20.25E.280.

(4) The allowed amount of maximum impervious surface in the Shoreline Residential and Shoreline Residential Canal environments located in R-1, R-1.8, R-2.5, R-3.5 and R-4 shall not exceed 50 percent. The allowed maximum impervious surface established for the Shoreline Residential environment located in R-5 and R-7.5 shall not exceed 55 percent. The allowed maximum lot coverage by structures in the Shoreline Residential environment located in R-10, R-15, R-20 and R-30 shall not exceed 80 percent.

(5) Dimensions allowed pursuant to this chart may not be achievable on properties with critical areas such as flood hazard areas, wetlands, and streams.

(6) The Shoreline Structure Setback is modified to account for encroachments by existing structures under the Footprint Exception of LUC 20.25E.065.E.1.c and may also be reduced to a minimum of 25 feet provided that impacts to existing shoreline vegetation are mitigated pursuant to the Shoreline Vegetation Conservation requirements contained in LUC 20.25E.065.F. A one-time lateral expansion of up to 200 square feet is allowed for existing structures within 25 feet of ordinary high water mark pursuant to the Residential Structure Setback Allowances contained in LUC 20.25E.065.E.2. Further shoreline setback encroachments may only be allowed through approval of a Shoreline Variance (refer to LUC 20.25E.190.

(7) Impacts to existing shoreline vegetation located within 50 feet from OHWM are required to ~~shall~~ be mitigated pursuant to the shoreline vegetation conservation requirements contained in LUC 20.25E.065.F.

(8) Limitation on Requirement to Provide Shoreline Vegetation Mitigation Planting. Fifteen percent impervious surface area, or activity area comprised of mown lawn, bare ground or pervious surfaces, shall be permitted within 0 – 25 feet of OHWM irrespective of whether the mitigation requirements of LUC 20.25E.065.F.8 have been fully met.

D. Residential Impervious Surfaces.

Impervious surfaces in the Shoreline Overlay District shall be regulated pursuant to LUC 20.20.460 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP, except that the maximum impervious surface total 0 – 200 feet contained in LUC Chart 20.25E.065.C.2 may be modified through the Special Shoreline Report Process (refer to LUC 20.25E.160.E). Modifications to the maximum impervious surface 0-10 feet from OHWM and maximum impervious surface 0-50 feet from OHWM may only be allowed through approval of a Shoreline Variance (refer to LUC 20.25E.190).

E. Residential Structure Setback for Shoreline Residential and Shoreline Residential Canal Environments.

1. General Setback Requirements Applicable to all Residential Development.
    a. The Shoreline Structure Setback shall be 50 feet.
    b. Measurement of Shoreline Structure Setback. The shoreline structure setback shall be measured landward from ordinary high water mark on a horizontal plane and to a point that results in the required dimension. On Lake Sammamish, the shoreline structure setback may be measured

landward from elevation 31.2 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination prepared by a qualified professional at the sole direction of the applicant. The fixed elevation shall not be used for the determination of ordinary high water mark required for the purpose of locating a residential moorage (refer to LUC 20.25E.065.H) or shoreline stabilization (refer to LUC 20.25E.065.G). If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback than required under this section.

c. Footprint Exception - Existing Structures. When a legally established structure existing on or before [insert date of ordinance adoption] encroaches into the structure setback established in LUC Chart 20.25E.065.C.2, the structure setback shall be modified to exclude the footprint of that portion of the structure located within the setback.

2. Residential Structure Setback Allowances within 25 feet of OHWM.
   a. Expansion of the exterior footprint of an existing legally established structure within the 25 foot shoreline structure setback is allowed when:
      i. The modification, addition, replacement or related activity does not increase the existing total footprint of the residence and associated impervious surface lying within the shoreline structure setback by more than 200 square feet over that existing before [insert effective date of ordinance]; and
      ii. No portion of the modification, addition or replacement is located closer to the OHWM; and
      iii. Impacts to existing shoreline vegetation are mitigated pursuant to the shoreline vegetation conservation requirements in LUC 20.25E.065.F; and
   b. This allowance may only be used once for the life of the structure.

3. Modification of Setbacks within 25 feet of OHWM. Expansion of the exterior footprint of an existing legally established structure within the 25 foot shoreline structure setback closer to ordinary high water mark, or in excess of the one-time 200 square foot allowance pursuant to LUC 20.25E.065.E.2, may only be allowed through approval of a Shoreline Variance (refer to LUC 20.25E.190).

F. Shoreline Vegetation Conservation.

1. Purpose and Scope.
   a. Purpose. Conservation of significant trees and existing shoreline vegetation as required by this section is imposed to maintain the visual appearance of

the City, to preserve the natural wooded character of the Pacific Northwest, to promote use of natural systems, and to reduce the impacts of development on the storm drainage system, water resources and shoreline ecological functions.

b. Scope. This section provides standards for shoreline vegetation conservation within established Shoreline Vegetation Conservation Areas and areas outside of the Shoreline Vegetation Conservation Area but within the Shoreline Overlay District. The proposed approach to vegetation conservation in the City of Bellevue is designed to ensure a nexus and rough proportionality between impacts and required mitigation. Both impacts and mitigation requirements are calculated based on a change in the type of land cover. The ecological value for each type of land cover is assigned within a range from 0 (no function) to 1 (maximum function). The proposed approach incorporates the following inputs:
    i. Existing level of shoreline ecological functions (value);
    ii. Final level of shoreline ecological functions (value); and
    iii. Area of impact and/or mitigation.

2. Applicability. The requirements of this section apply any time development or activity creates an impact to existing shoreline vegetation as defined in LUC 20.25E.065.F.7. Additional standards may apply for critical areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

3. Required Review. The shoreline vegetation conservation requirements shall be imposed any time a permit, approval, or review is required.

4. Modification of Standards. The vegetation impact and mitigation requirements contained in this section may be modified using the Special Shoreline Report Process (refer to LUC 20.25E.160.E). A Special Shoreline Report is not necessary for the Director to modify the requirements for nonconforming lots or lots with unique sizes and shapes when necessary to ensure mitigation has a nexus and rough proportionality to the proposed impact and is consistent with all relevant constitutional and other legal limitations.

5. Shoreline Vegetation Conservation Area Dimensions. For the Shoreline Residential and Shoreline Residential Canal environments the dimension of the Shoreline Vegetation Conservation Area shall be 50 feet measured landward from ordinary high water mark on a horizontal plane and to a point that results in the required dimension.

6. Retention of Existing Vegetation. Within the Shoreline Vegetation Conservation Area, existing shoreline vegetation may only be removed in compliance with this section.

7. Impacts to Existing Shoreline Vegetation. All development or activity resulting in adverse impacts to existing shoreline vegetative functions shall require mitigation per the applicable standards set forth in LUC 20.25E.065.F.8 of this section. Adverse impacts to existing vegetative functions are defined as follows:

   a. New or Expanded Impervious Surfaces. Placement of any impervious surface within the Shoreline Vegetation Conservation Area, and outside of the footprint of the existing impervious surface that was legally established before [INSERT EFFECTIVE DATE of ordinance]. Placement of impervious surface applies to new, reconfigured, and expanded structures or impervious surfaces allowed pursuant to the requirements of LUC 20.25E.065.C through E. A one-time lateral expansion of an existing impervious surface may be undertaken in that area between 25-50 feet from OHWM without the need for mitigation of non-significant tree impacts under the terms of LUC 20.25E.065.F.7 and 8, so long as the following criteria are met:

      i. The lateral expansion is not located within 25 feet of OHWM; and

      ii. The lateral expansion does not increase the existing total footprint of the residence and/or associated impervious surface lying within the Shoreline Vegetation Conservation Area by more than 200 square feet or five percent (5%), whichever is greater, over that existing before [insert effective date of ordinance]; and

      iii. No portion of the modification, addition or replacement is located closer to the OHWM; and

      iv. Impacts to any significant trees are mitigated pursuant to the terms of LUC 20.25E.065.F.8.c.iii; and

      v. This allowance may only be used once for the lifetime of the existing impervious surfaces.

   b. Shoreline Vegetation Impact. Shoreline vegetation impacts are defined as any of the following:

      i. Removal or alteration of more than 200 square feet of existing shoreline vegetation including non-significant trees, shrubs, or

groundcover in a five year period within the area between 0-25 feet of OHWM;

ii. Removal or alteration of more than a total of 1,000 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a five-year period within the Shoreline Vegetation Conservation Area;

iii. Removal or alteration of less than 1,000 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a five-year period within the Shoreline Vegetation Conservation Area if the area of lawn or bare ground increases by more than 200 square feet.

Vegetation removal and alterations are not governed by the square footage limitations set forth in this paragraph when the alteration is part of an approved watershed restoration plan pursuant to LUC 20.25E.170.C.15, a fish or wildlife habitat improvement project pursuant to LUC 20.25E.170.C.16 or a voluntary removal of shoreline stabilization meeting the requirements of LUC 20.25E.080.F.7. Regular landscape maintenance, as described under LUC 20.25E.065.F.11, is not considered a shoreline vegetation impact.

c. Overhanging Vegetation Impact. Removal of existing vegetation within the Shoreline Vegetation Conservation Area that overhangs the shoreline waterbody.

d. Significant Tree Impact. Removal of any significant tree within the Shoreline Vegetation Conservation Area. For further information regarding the definition of significant tree, refer to LUC 20.50.046 now or as hereafter amended.

8. Mitigation for Impacts to Existing Shoreline Vegetation. To ensure no net loss of shoreline ecological functions, mitigation planting shall be designed to have a nexus and rough proportionality to the impacts on ecological functions.

a. Types of Vegetation Mitigation.

i. Shoreline Vegetation Replacement. Shoreline vegetation replacement includes planting of native or non-native vegetation that offsets impacts to existing shoreline vegetation with an equal amount of shoreline vegetation mitigation, as defined in LUC 20.25E.065.F.8.c. Conversion to mown lawn, annual or perennial

garden, weeds, bare ground, and pervious structures do not qualify as shoreline vegetation replacement. Shoreline vegetation replacement shall meet the standards set forth in LUC 20.25E.065.F.8.g.

ii. Shoreline Vegetation Enhancement. Shoreline vegetation enhancement includes improving existing vegetation through native in-fill plantings and/or removal of invasive vegetation such that the resulting vegetation meets the composition, coverage and noxious weed standards for shoreline mitigation planting set forth in LUC 20.25E.065.F.8.g.i, iv, and vi.

iii. Shoreline Vegetation Retention. Shoreline vegetation retention includes maintaining vegetation that already meets the composition, coverage and noxious weed standards for shoreline mitigation planting set forth in LUC 20.25E.065.F.8.g.i, iv, and vi.

iv. Tree Replacement. Tree replacement includes planting of native or non-native tree species that meet the standards in LUC 20.25E.065.F.8.g.i(4).

b. Mitigation Planting Types. The type of mitigation required shall be determined by the location and type of impacts to existing shoreline vegetation (defined in LUC 20.25E.065.F.7), as follows:

Chart 20.25E.065.F.8.b Shoreline Vegetation Mitigation Planting Types

Location of Impact	Type of Impact	Mitigation Planting Type Required
0-25 feet from OHWM	• New or Expanded Impervious Surfaces • Native Vegetation Impact • Overhanging Vegetation Impact	Shoreline vegetation replacement, enhancement, retention, or a combination thereof, 0-25 feet from OHWM
0-25 feet from OHWM	Significant Tree Impact	Tree replacement 0-50 feet from OHWM pursuant to LUC 20.25E.065.F.8.c.iii

Location of Impact	Type of Impact	Mitigation Planting Type Required
25-50 feet from OHWM	• New or Expanded Impervious Surfaces • Native Vegetation Impact	Shoreline vegetation replacement, enhancement, retention, or a combination thereof, 0-50 feet from OHWM
	Significant Tree Impact	Tree replacement 0-200 feet from OHWM pursuant to LUC 20.25E.065.F.8.c.iii

c. Mitigation Amount Required. For each type of Impact to Existing Shoreline Vegetation, the number of debits generated by the impact shall be offset by an equal number of credits generated through shoreline vegetation mitigation.

i. Debits. For each type of shoreline vegetation impact, the number of debits shall be calculated by summing, for each type of land cover conversion, the difference between the final value and existing value of land cover types using LUC Chart 20.25E.065.F.8.d, multiplied by the square footage of land cover converted, as follows:

Debits = Sum (Change in Land Cover Value x Impact Area in square feet)

ii. Credits. For each type of mitigation planting required per LUC 20.25E.065.F.8.b, the number of mitigation credits shall be equal to or greater than the number of debits as calculated pursuant to LUC 20.25E.065.F.8.c.i above. The number of mitigation credits shall be calculated by summing, for each type of land cover conversion, the difference between the final value and existing value of land cover types using LUC Chart 20.25E.065.F.8.d, as follows:

Credits = Sum (Change in Land Cover Value x Mitigation Area in square feet)

iii. Significant Trees. Debits and credits are not assigned to significant trees. All significant trees removed shall be replaced consistent with the following standards:

(1) Significant tree replacement ratio

Significant Tree Removed	Replacement Ratio (replaced : removed)
8 – 10 inches	1 : 1
10 – 16 inches	2 : 1
Greater than 16 inches	3 : 1

(2) Replacements for Significant Trees. Removal of significant trees over 50 feet in height and removal of significant trees identified on the replacement trees list contained in LUC 20.25E.065.8.g.i.(4) shall be replaced with trees specifically identified on the replacement trees list contained in LUC 20.25E.065.8.g.i(4) at the ratio provided in paragraph (1) above. Removal of significant trees less than 50 feet in height and not identified on the replacement trees list contained in LUC 20.25E.065.8.g.i(4) may be replaced with any tree at a 1:1 ratio.

(3) Planting Location. All significant trees removed from the area within 25 feet of OHWM shall be replaced in a location within 50 feet of OHWM. All significant trees removed from the area between 25 to 50 feet of OHWM shall be replaced in a location within 200 feet of OHWM, provide that at least one replacement tree is located within 50 feet of OHWM.

(4) Size at Planting. All significant trees removed shall be replaced with a minimum 5 gallon or 2-inch caliper sized tree in the designated mitigation planting area per LUC Chart 20.25E.065.F.8.

(5) Critical habitat. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts.

iv. Impervious Surface Waterward of Existing Structures. In addition to mitigation required through paragraphs F.8.c.i through iii of this section, any shoreline impact resulting from an increase in impervious surface located waterward of existing structures within the Shoreline Vegetation Conservation Area shall also require installation of 75 square feet of native vegetation within 0-10 feet of OHWM. Planting shall meet the standards described in LUC 20.25E.065.8.g.

d. Shoreline Land Cover Values. LUC Chart 20.25E.065.F.8.d sets forth values for land cover types in shoreline jurisdiction. The applicant shall use these values to calculate total debits and total credits required, as set forth in LUC 20.25E.065.F.8.c.

Chart 20.25E.065.F.8.d Shoreline Land Cover Types and Values

Land cover type	Standard value (1)	Mitigation planting types
Impervious surface (2)	0.0	Not allowed as mitigation planting for removal of Land Cover having a value of greater than 0.2.
Mown lawn, annual or perennial gardens, noxious species/weeds	0.1	
Bare ground or pervious features	0.15	
Non-native vegetation, 25-50 feet from OHWM (3)	0.25	Shoreline vegetation replacement, enhancement, or retention.
Non-native vegetation, 0-25 feet from OHWM (3)	0.3	
Native vegetation (4), 25-50 feet from OHWM (6)	0.6	
Rain garden/swale, 0-200 feet from OHWM (7)	0.7	
Native vegetation (4), 0-25 feet from OHWM (6)	0.8	
Native overhanging vegetation (5), 0-10 feet from OHWM	1.0	

Notes: Shoreline Land Cover Types and Values

(1) In order to receive credit using these values, mitigation planting shall meet the standards set forth in LUC 20.25E.065.F.8.g. Existing vegetation is not required to meet the standards for mitigation planting set forth in LUC 20.25E.065.F.8.g. Existing vegetation with a minimum coverage of 50 percent by area shall be considered a vegetation area. The minimum size of a vegetated area described in LUC 20.25E.065.F.8 is 200 square feet.
(2) Assumes only 'non-pollutant-generating' impervious surfaces (e.g. roofs, patios, walkways) within the shoreline vegetation conservation area.
(3) Defined as non-native trees, shrubs, and/or groundcover. Area of noxious weeds, shall be valued the same as mown lawn, and annual or perennial gardens.

(4) Defined as a mixture of native trees, shrubs, and groundcover that do not meet the definition of native overhanging vegetation (see Note 5 below).
(5) Native willows, native dogwoods, native emergent vegetation, or other native non-significant trees or shrubs that, when mature, will have the potential to overhang the shoreline. Vegetation meeting this definition shall not be classified as a significant tree even if it would otherwise qualify for this designation pursuant to the definition contained in LUC 20.50.046 now or as hereafter amended.
(6) Mitigation area which does not meet the 60% composition standard for trees and/or shrubs would be assigned a standard value of 0.1.
(7) Installation shall be pursuant to the Western Washington Rain Garden Handbook for Region 3, now or as hereafter amended. Rain gardens provide water quality benefits that may not fully mitigate for lost habitat structure associated with a project that impacts trees and shrubs. Projects that impact native vegetation shall also be mitigated with the installation of native vegetation having a shoreline land cover value of 0.6 or greater pursuant to the terms of LUC 20.25E.065.F.8.c.

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e. Shoreline Vegetation Enhancement. For those areas of existing shoreline vegetation that do not presently meet the standards for shoreline mitigation planting set forth in LUC 20.25E.065.F.8.g, the applicant may improve the existing vegetation through in-fill planting of additional native vegetation and/or removal of invasive vegetation. The following standards shall apply to shoreline vegetation enhancement.

i. Enhanced vegetation shall be assigned an increase in land cover value equal to 0.15 above the standard value set forth in LUC 20.25E.065.F.8.d. Enhancement credits shall be calculated by summing, for each area of vegetation enhanced, the difference in value between the initial and final land cover types (equal to 0.10 in all instances of vegetation enhancement), as follows:

Enhancement Credits = Sum (0.15 x Enhanced Area in square feet)

ii. Enhanced vegetation shall meet the standards for shoreline mitigation planting set forth in LUC 20.25E.065.F.8.g.
iii. The enhancement credit may apply to existing non-native planting areas, but any infill planting installed to meet the enhancement standard shall consist of native species.
iv. Shoreline vegetation enhancement shall not apply to significant tree replacement.
v. Enhancement credits shall only be applied to a given area once.

f. Shoreline Vegetation Retention. The applicant shall receive mitigation credits for retaining areas of existing shoreline vegetation that presently meet the standards for composition, coverage, and noxious weeds for shoreline mitigation planting set forth in LUC 20.25E.065.F.8.g.

i. Retained vegetation shall be assigned an increase in land cover value equal to 0.15 above the standard value set forth in LUC 20.25E.065.F.8.d. Retention credits shall be calculated by summing, for each area of vegetation retained, the difference in

value between the initial and final land cover types (equal to 0.15 in all instances of vegetation retention), as follows:

Retention Credits = Sum (0.15 x Retained Area in square feet)

ii. Retention credits shall only be applied to a given area once.

g. Shoreline Vegetation Mitigation Planting. The following standards shall apply to shoreline vegetation mitigation planting.

i. Composition.

(1) Native, Overhanging Vegetation. Planted native, overhanging vegetation shall be any combination of native willows, red osier dogwood, and/or native emergent vegetation that is rooted in or overhangs the shoreline waterbody. Willows or dogwoods shall compose at least 80 percent of the total planted area based on coverage at five years.

(2) Native Vegetation. Planted native vegetation shall be a combination of trees, shrubs, and/or groundcover native to the lowlands of Western Washington with a minimum combined five year tree and shrub coverage of 60 percent. Native species composition shall be at least 80 percent coverage at five years.

(3) Non-native Vegetation. Planted non-native vegetation shall be a combination of trees, shrubs, and/or groundcover with a minimum combined five year tree and shrub coverage of 60 percent.

(4) Replacement Trees. Replacement trees shall be a species identified in the planting list provided below or as approved by the Director as a functional equivalent.

Conifers - Native to Lowlands of Western Washington

Common Name	**Scientific Name**
Grand fir	*Abies grandis*
Noble fir	*Abies procera*
Alaska yellow cedar	*Chamaecyparis nootkatensis*
Sitka Spruce	*Picea sitchensis*
Shore Pine	*Pinus contorta var. contorta*

Lodgepole Pine	*Pinus contorta var. latifolia*
Western White Pine	*Pinus monticola*
Douglas-fir	*Pseudotsuga menziesii*
Western Red Cedar	*Thuja plicata*
Western Hemlock	*Tsuga heterophylla*

Conifers - Not native to Lowlands of Western Washington

Common Name	**Scientific Name**
Incense Cedar	*Calocedrus decurrens*
Atlas Cedar	*Cedrus atlantica*
Deodar Cedar	*Cedrus deodora*
Cedar of Lebanon	*Cedrus libani*
Western Larch*	*Larix occidentalis*
Ponderosa Pine	*Pinus ponderosa*
Coastal Redwood	*Sequoia sempervirens*

**Deciduous*

Broadleaf Natives

Common Name	**Scientific Name**
Big Leaf Maple	*Acer macrophyllum*
Red Alder	*Alnus rubra*
Pacific Madrone*	*Arbutus menziesii*
Pacific Dogwood	*Cornus nuttallii*
Oregon Ash	*Fraxinus latifolia*
Black Cottonwood	*Populus balsamifera*
Quaking Aspen	*Populus tremuloides*
Garry Oak	*Quercus garryana*
Paper Birch	*Betula papyrifera*

**Evergreen*

ii. Plant Density. Planted vegetation should follow a recommended maximum on-center spacing of three feet for groundcover, six feet for shrubs, and 15 feet for trees. Live stakes may also be used for willows and dogwood with an on-center spacing of three feet. The corresponding coverage area per individual plant is calculated at 10 square feet per groundcover and live stakes, 30 square feet per shrub, and 200 square feet per tree.

iii. Size at Planting. Planted vegetation shall have a minimum pot size at planting of one gallon for groundcover, two gallons for shrubs, and five gallons or 2 inch caliper size for trees.

iv. Coverage. Planting shall achieve an ultimate areal coverage of at least 80 percent by year five after planting.

v. Siting. Planted areas should be consolidated within the parcel to the degree feasible. Clusters of vegetation are required for credits to be received and shall be greater than 200 square feet in size, where feasible.

vi. Noxious Weeds. Area of noxious weeds and invasive species including but not limited to English Ivy (Hedera helix), Himalayan blackberry (Rubus discolor, R. procerus), and Evergreen blackberry (Rubus lacintaus) shall comprise no more than 10 percent of mitigation planting area at any time within the first five years after planting.

vii. Survival. The applicant shall demonstrate 100 percent survival of all planted trees, shrubs, and groundcover the first year after planting and 80 percent survival of all planted trees and shrubs in years three through five after planting. Survival standards do not apply to live stake planting, provided that coverage standards of LUC 20.25E.065.F.8.g.iv are met.

viii. Limitation on Requirement to Provide Shoreline Vegetation Mitigation Planting. Fifteen percent impervious surface area, or activity area comprised of mown lawn, bare ground or pervious surfaces, shall be permitted within 0 – 25 feet of OHWM irrespective of whether the mitigation requirements of LUC 20.25E.065.F.8 have been fully met.

h. Dock Grating Mitigation. The applicant shall receive mitigation credit for the replacement of solid decking with grated decking.

i. Dock Area within 30 feet of OHWM. Replacement of solid decking with grated decking in the near shore area earns 50 units of mitigation credit.

ii. Entire Dock Area. Replacement of all solid decking with grated decking over the entire dock area earns 75 units of mitigation credit.

i. Advance Mitigation. Advance mitigation credits may be generated through any mitigation planting conducted prior to the time at which existing shoreline vegetation is impacted, in accordance with the following standards.
   i. Baseline mitigation credits shall be calculated in the same way as mitigation credits in accordance with LUC 20.25E.065.F.8.c.
   ii. The value of advance mitigation credits shall increase by five percent of baseline mitigation credits each year following the mitigation planting and prior to the use of the credits to offset future vegetation impacts (debits). Total advance mitigation credits shall not exceed 200 percent of baseline mitigation credits.
   iii. Advance mitigation planting shall be conducted in accordance with the procedures and standards set forth in LUC 20.25E.065.F.8, Mitigation for impacts to existing Shoreline Vegetation.

j. Planting Plan. The applicant shall submit a planting plan prepared by a qualified professional or per guidance in the City of Bellevue Shoreline Handbook [to be developed]. The planting plan shall show location, size, species, and quantity of proposed mitigation planting, including replacement, enhancement, and retention of vegetation. The applicant may, at the applicant's discretion, record plans and credits earned with the King County Record's Office or its successor agency.

9. Tree Retention Standards outside of the Shoreline Vegetation Conservation Area. Development and uses located outside of the shoreline vegetation conservation area shall be regulated pursuant to the city-wide Tree Retention and Replacement standards in LUC 20.20.900 (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP. Additional standards may apply for critical areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

10. Tree Protection Required. The applicant shall use tree protection techniques approved by the Director during land-disturbing activities and construction to protect trees from adverse impacts related to land-disturbing activities, and provide for the continual healthy life of retained significant trees.

11. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features developed prior to [insert effective date ordinance], in the shoreline vegetation conservation area may be continued in accordance with this section. For purposes of this section, "routine maintenance" includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this subsection, "landscape features" refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have

been consistently carried out so that the ornamental species predominate over native or invasive species.

12. Removal of Noxious Species. Noxious species may be removed from the shoreline vegetation conservation area consistent with King County's Noxious Weed Program's best management practices for removal of noxious weeds so long as the exposed areas are replanted as necessary to control sediment runoff. The preferred method to remove noxious species from the shoreline vegetation conservation area is with hand labor and hand-operated equipment. Eurasian water milfoil and Brazilian elodea may be removed without triggering the mitigation requirements of LUC 20.25E.065.F.8.g.

13. Hazard Significant Trees within the Shoreline Vegetation Conservation Area. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to an existing structure, public or private road or sidewalk, or other permanent improvement, is allowed subject to the following requirements.

    a. Mitigation. The landowner shall replace any trees that are removed with minimum 5 gallon or 2 inch caliper size replacement tree(s) pursuant to the ratio contained in LUC 20.25E.065.F.8.c.iii.

    b. Wildlife snag as alternative mitigation. A landowner may chose to convert a hazard tree proposed for removal to a wildlife snag as an alternative to providing replacement mitigation; and

    c. Notification of removal. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner on whose property the tree is located prior to receiving the permits required under Chapter 23.76 BCC (Clearing and Grading Code) provided, that the landowner makes reasonable efforts to notify the City ~~,~~ ~~and~~ within 14 days following such action. The landowner shall propose mitigation planting in compliance with the provisions of LUC 20.25E.065.F.8.c.iii and an installation schedule within 30 days of removing the hazard tree.

14. Select Vegetation Pruning. Pruning of existing trees and vegetation within the shoreline vegetation conservation area with hand labor and hand-operated equipment in accordance with this subsection is allowed without a shoreline permit or approval. A Clearing and Grading Permit, Chapter 23.76 BCC, and/or SEPA review, Chapter 22.02 BCC, may still be required. The pruning allowed by this subsection shall be performed in accordance with guidelines established by the Director for each of the following pruning techniques: canopy reduction; canopy cleaning; canopy thinning; canopy raising or lifting; structural pruning; and canopy restoration. The following exceptions apply:
    a. In no event may a tree or vegetation which is an active nest site for a species of local importance be pruned pursuant to this paragraph.

b. Pruning of overhanging vegetation used for mitigation credits, including enhancement, conservation, or advance credits, may not reduce the amount of vegetation hanging over or into the shoreline waterbody.

G. Shoreline Stabilization

Shoreline stabilization measures in the Shoreline Overlay District are regulated pursuant to LUC 20.25E.080.

H. Residential Moorage (Overwater Structures).

1. Applicability. Moorage facilities are allowed in the Shoreline Overlay District when in compliance with paragraph H of this section.
2. Definitions. The following definitions apply to paragraph H of this section in addition to the definitions contained in LUC 20.25E.280 and Chapter 20.50 LUC (as set forth in the Land Use Code on [INSERT DATE of ordinance adoption]) which is incorporated by this reference into the SMP.

   a. Boat. A vessel built to travel on water that carries people or goods and is propelled by oars, outboard motor, inboard motor, or by wind.

   b. Boathouse. A boat cover that includes at least one wall. Boathouses may be structurally integrated into or attached to the dock or boatlift or may be freestanding.

   c. Boatlift. A structure or mechanism designed to elevate and dry-store boats above the water. Boatlifts do not include floating boatlifts, which for the purpose of this section, are regulated as a boat. Boatlifts include cradle lifts, platform lifts, and hoist lifts.

   d. Open Sided Boat Moorage Cover. A boat shelter with a permanent structural roof and open sides.

   e. Lift Canopy. A fabric skinned rigid framed boat cover structurally attached to a boatlift or watercraft lift roughly the equivalent in size of the boat or watercraft lift it is designed to protect.

   f. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to moorage.

   g. Reconfigure. Refers to the rearrangement of dock structure elements which result in new length and width dimensions even when the overall square footage remains unchanged from the original dock structure.

   h. Watercraft. A small recreational vessel that the rider sits or stands on, rather than inside of, seats up to three riders, and is powered by an inboard jet propulsion system.

i. Watercraft Lift. A structure or mechanism that is designed to elevate and dry-store watercraft above the water. The term watercraft lift does not include floating watercraft lifts, which for the purpose of this section, are regulated as watercraft. Watercraft lifts include cradle lifts, platform lifts, and hoist lifts.

3. General Requirements Applicable to all Residential Docks. The following standards apply to all development and repairs related to residential docks.

   a. Dock Materials. Environmentally neutral materials approved by the Environmental Protection Agency for use in aquatic environments shall be used. No materials treated with known toxic preservatives is allowed. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly, or through precipitation that causes discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.

   b. Dock Lighting. Dock lighting for the purpose of illuminating the dock surface for safety is allowed when the illuminating fixtures are limited to the minimum height necessary above the dock surface, or screened to provide the intended function of walkway illumination, without allowing light emissions to spill outside of the dock surface.

   c. Accidental Destruction - Timing of Construction. Pursuant to paragraph I.4.e of this section, legally-established structures destroyed by fire, explosion, or other unforeseen disaster beyond the control of the owner may be reconstructed in the same configuration; provided, that complete applications for all required permits are submitted within 2 years from the date of destruction. Materials used for reconstruction shall comply with the requirements set forth in paragraph 3.a of this section. Areas of temporary construction disturbance resulting from the reconstruction shall be restored to pre-construction conditions.

4. General Requirements Applicable to New or Reconfigured Residential Docks.

   a. Paragraph H.4 and LUC Chart 20.25E.065.H.4 of this section contain general requirements that apply to all new and reconfigured residential docks in addition to the general requirements set forth in paragraph H.3 of this section. Each application for a new or reconfigured residential dock shall comply with these requirements.

Chart 20.25E.065.H.4 New and Reconfigured Residential Dock Standards.

Residential Dock Location					
	Lake Washington (1)	**Lake Sammamish (1)**	**Phantom Lake (1)**	**Residential Canal Environment (1)**	**Alternative Standard or Limitation – When Allowed**
Number of docks allowed	One per residential lot				N/A
Dock Side Setback Requirements (2)	10’	10’	10’	10’	N/A
Maximum Dock Length	150’	150’	100’	Platform may not extend greater than 10’ from canal bulkhead	Shoreline Variance (3)
Maximum Dock Size - sq. ft.	480 sq. ft.	480 sq. ft	250 sq. ft.	100 sq. ft.	State and Federal Approval (4)
	Dock Walkway Requirements:				
Maximum Walkway width	5’ for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	5’ for portion of pier or dock located within 30 ft. of the OHWM; otherwise, 6 ft. for walkways	5’	Walkway Prohibited N/A	State and Federal Approval (4)
Ell location restriction related to Water Depth	30’ waterward of OHWM or at least 9’ of water depth measured	30’ waterward of OHWM or at least 9’ of water depth	State and Federal Approval (4)	Ell Prohibited N/A	State and Federal Approval (4)

Residential Dock Location					
	Lake Washington (1)	**Lake Sammamish (1)**	**Phantom Lake (1)**	**Residential Canal Environment (1)**	**Alternative Standard or Limitation – When Allowed**
	from the ordinary high water mark	measured from the ordinary high water mark			
Mooring Pile	2 maximum per residential lot				State and Federal Approval (4)
Decking	Grated				State and Federal Approval (4)

Notes: New and Reconfigured Residential Dock Standards

(1) Floating docks may be approved when the use of a fixed dock is not feasible.

(2) No private dock or other structure waterward of the ordinary high water mark, including boatlifts, watercraft lifts, and other structures attached thereto, shall be closer than 10 feet to any adjacent property line projection, except where a mutual agreement of adjoining property owners is recorded with the King County Records and Election Division and the Bellevue City Clerk and submitted as part of the permit application for the use or activity.

(3) These standards or limitations may be modified through approval of a Variance to the Shoreline Master Program (20.25E.190 LUC).

(4) These standards or limitations may be modified through approval of larger dimensions or alternative materials authorized by the U.S. Army Corps of Engineers (pursuant to the approval authority provided under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act) or by Washington Department of Fish and Wildlife (pursuant to the approval authority under Hydraulic Project Approvals) through their respective permitting processes.

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b. New and Reconfigured Residential Docks - Limitations.

i. Number of Docks Per Lot. Construction of one residential dock per upland residential waterfront lot or one-joint use dock for two or more adjacent waterfront lots is allowed in accordance with Chart 20.25E.065.H.4. Expansion of any legally-established existing residential dock is permitted; provided the

expansion complies with the development standards contained in paragraphs H.3 and H.4 of this section.

ii. Lot Dimensional Requirements. Residential docks are allowed only on:

(1) Lots created on or after [insert effective date of ordinance], and having water frontage meeting or exceeding the minimum lot width required in the underlying land use district (for further information regarding the city-wide standard refer to LUC 20.20.010); or

(2) Lots created before [insert effective date of ordinance]; or

(3) Nonbuilding tracts platted for the purpose of providing common residential moorage for a group of contiguous properties; provided the minimum width of the nonbuilding tract is equal to or greater than 24 feet.

iii. Combining Frontage—Shared Docks. For the purposes of meeting the requirements of paragraph H.4.b.ii of this section, adjoining property owners may combine their water frontage by mutual agreement recorded with the King County Records and Elections Division, or its successor agency, and the Bellevue City Clerk. Only one shared residential dock is permitted pursuant to a combined frontage agreement, which may connect with the property landward of the ordinary high water mark at only one location.

iv. Boathouses. New boathouses are prohibited. Existing boathouses waterward of OHWM are subject to the rules for nonconforming overwater accessory structures set forth in paragraph I of this section.

v. Open-sided Boat Moorage Covers. One open-sided structural boat cover is allowed per residential dock. Open-sided boat covers shall be considered as part of the dock, and the total cumulative square footage of the open-sided boat cover and the dock shall not exceed the allowed maximum dock size in Chart 20.25E.065.H.4.

vi. Siting and Design. New and reconfigured docks should be located and designed to avoid the need for new and maintenance dredging.

5. Repair and Replacement of Existing Residential Docks.

Existing legally-established residential docks may be repaired or replaced in the existing configuration, provided that the materials used for dock repairs shall meet the requirements established in paragraph 20.25E.065.H.3.a.

6. Boat and Watercraft Lifts. To reduce disturbance of the lake substrate, attached boatlifts and watercraft lifts are preferred over freestanding lifts. Lifts are limited in the number allowed and location:

a. Number. The number of combined boat and watercraft lifts is limited to four per dock.

b. Location. The landward stanchion of any boat or watercraft lift shall be located more than 30 feet waterward of OHWM or within 30 feet waterward of OHWM if located in at least 9 feet of water depth when measured from the OHWM unless otherwise approved by State or Federal Agencies pursuant to LUC Chart 20.25E.065.H.4 Note 4.
c. Number of Lift Canopies Allowed. One fabric watercraft or boat lift canopy is allowed per single use dock. Two fabric watercraft or boat lift canopies are allowed per joint use dock. Canopy fabric shall be light-transmitting, unless alternative materials are approved by State or Federal Agencies pursuant to LUC Chart 20.25E.065.H.4 Note 4.

I. Nonconforming Residential Development

1. Purpose. Existing residential development landward of the ordinary high water mark of the Shoreline Overlay District that was legally established prior to effective date of this ordinance is considered to be conforming to the Part 20.25E LUC. The purpose of this section is to allow for continued enjoyment, maintenance and repair of existing boathouses located waterward of the ordinary high water mark when ancillary to residential development that was lawful when constructed, and to allow for replacement of boathouses when destroyed through no fault of the owner.

2. Applicability

   a. This section applies to legally constructed boathouses located waterward of the ordinary high water mark that existed as of [insert effective date].

   b. The nonconforming provisions of WAC 173-27-080 do not apply.

   c. The nonconforming provisions of LUC 20.25E.040 do not apply to residential development located within the Shoreline Overlay District. The nonconforming provisions of LUC 20.20.560 apply only to General Development Requirements of Chapter 20.20 LUC that are applicable city-wide and are not part of the SMP.

   d. Modifications to residential development located within a critical area or critical area buffer identified pursuant to LUC 25.25H.030 shall comply with the applicable requirements of Part 20.25H LUC Critical Areas Overlay District (as set forth in Ordinance No. (INSERT critical areas conformance ordinance number and date), which is incorporated by reference into the SMP.

3. Regulations and Thresholds Applicable to Nonconforming Boathouses.
    a. Ownership. The status of a nonconforming residential development is not affected by changes in ownership.
    b. Continued Enjoyment. Nonconforming residential development may remain unless specifically limited by the terms of this section.
    c. Routine Maintenance and Repair. Routine maintenance and repair associated with a nonconforming boathouse is allowed. "Routine maintenance" includes those usual acts to prevent decline, lapse, or cessation from a legally established condition. "Repair" includes in-kind restoration and modernization improvements to a state comparable to its original condition within a reasonable period after decay has occurred. Improvements to a nonconforming boathouse that cost more than 50% of the replacement value of an individual structure undergoing improvement are not defined as maintenance and repair, and shall be considered a new boathouse, which is not permitted waterward of OHWM.
        i. Three-Year Period. Improvements made within a three-year period will be viewed as a single action for the purposes of determining whether regulations applicable to new residential development shall apply.
        ii. Value of Improvements. The value of improvements is determined by the Director based on the entire project and not individual permits.
    d. Exemptions from the Calculation of Replacement Value. The following improvements do not count toward the calculation of replacement value thresholds identified in paragraph I.3.c:
        i. Alterations related to installation of improved fire prevention measures;
        ii. Alterations related to removal of architectural barriers pursuant to the Americans with Disabilities Act, or the Washington State Building Code (Chapter 19.27 RCW), now or as hereafter amended;
        iii. Alterations related to seismic retrofit of existing structures;
        iv. Improvements to on-site stormwater management facilities in conformance with Chapter 24.06 BCC, now or as hereafter amended;
        v. Alterations that meet LEED, Energy Star or other industry-recognized standard that results in improved mechanical system, water savings, or operational efficiency; and,
        vi. Alterations that meet the definition of routine maintenance, including but not limited to, painting, caulking, washing and rewiring.
    e. Accidental Destruction. When a legally established boathouse is damaged or destroyed by fire, explosion, natural disaster, or other unforeseen

circumstances, the boathouse may be repaired or reconstructed subject only to the following limitations:

i. The legally established boathouse shall be repaired or reconstructed within the footprint existing when the destruction occurred, unless the area of the structure footprint is moved to a less sensitive portion of the site, the movement reduces nonconformities to the SMP;

ii. Complete permit applications for all required permits are submitted within 2 years from the date of destruction and construction is diligently pursued;

iii. Under no circumstances may the reconstruction expand, enlarge, or otherwise increase a nonconformity; and,

iv. Areas of temporary construction disturbance resulting from reconstruction shall be restored pursuant to a mitigation plan (refer to LUC 20.25E.060.D.1 and 5).

f. Permits. If not otherwise exempt pursuant to the terms of LUC 20.25E.170, a Shoreline Substantial Development Permit shall be obtained prior to undertaking any maintenance and repair, alteration, or reconstruction authorized by this section.

4. Existing Residential Development within the Shoreline Structure Setback.

Residential and Accessory Structures. A legally constructed residential or accessory structure that encroaches into the shoreline structure setback, is granted a footprint exception pursuant to the requirements of LUC 20.25E.065.E.1.c and is not considered to be nonconforming and may be maintained, repaired or replaced, in accordance with LUC 20.25E.065.A through F.

5. Existing Moorage and Shoreline Stabilization

a. Legally constructed moorage may be repaired and maintained in accordance with LUC 20.25E.065.H (Residential Moorage).

b. Legally constructed shoreline stabilization may be repaired and replaced in accordance with LUC 20.25E.080.F (Shoreline Stabilization).

20.25E.070 Specific Use Regulations

A. Purpose. This section contains requirements and standards that apply to specific uses and development in the Shoreline Overlay District. These requirements and standards are in addition to the procedures, permit requirements, and standards set forth in other sections of the Bellevue SMP.

B. Aquaculture

1. When Allowed. Aquaculture is allowed when dependent on the use of the water area and when consistent with control of pollution and prevention of damage to the environment. An aquaculture use is allowed only when developed as part of fish recovery program sponsored, developed, and overseen by a government entity or tribe.

2. Performance Standards. When an aquaculture use is permitted, it shall be done with minimum disturbance to shoreline resources and shall comply with the requirements of LUC 20.25H.055 in addition to all of the following performance standards:

a. When development of an aquaculture use is permitted, the structures shall be designed to minimally interfere with water quality and flow, fish circulation, and aquatic plant life. Construction of aquaculture structures shall be done with minimum disturbance to the existing shoreline.

b. Water discharged or released from an aquaculture projects shall not adversely affect water quality, and shall be designed to minimize interference with water quantity and flow, fish circulation, and aquatic plant life. Construction of aquaculture structures shall be done with minimum disturbance to the existing shoreline;

c. No structure which might reasonably hinder the passage of anadromous fish shall be permitted;

d. Aquaculture projects shall be developed in a way which does not have a significant adverse effect on the aesthetic quality of the shoreline;

e. Aquaculture projects shall, to the extent feasible, use underwater structures for fish-rearing facilities;

f. Project proponents shall obtain all required state and federal permits necessary to develop and operate the aquaculture use;

g. Aquaculture projects shall not prohibit or restrict other uses of the water, such as swimming and/or boating;

h. Aquaculture projects must be set back appropriate distances necessary from other shoreline uses to avoid potential conflicts;

i. Discontinued aquaculture uses must be removed within a reasonable time, and project areas shall be inspected for impact and restoration actions necessary to appropriately abandon the use; and

j. Aquaculture uses shall submit for review and approval an operations and management plan that includes the following:

i. Action plans to effectively manage operation byproducts with the goal of protecting water quality;
ii. Operations plans for the management and maintenance of structures and facilities in a manner that demonstrates prevention of conflict with adjacent uses;
iii. Contingency plan that addresses unplanned degradation of water quality, introduction of foreign species, and emergency operation shutdown; and
iv. Additional elements as deemed necessary by the Director to ensure that operations and management of the aquaculture use are consistent with the performance criteria of this paragraph and to ensure compliance with the Bellevue SMP.

3. No Net Loss Required. An aquaculture use shall not be permitted in areas where it would result in a net loss of ecological functions, and shall be designed and located to prevent the spread of disease to native aquatic life, and the establishment of non-native species.

C. Recreation

1. Applicability. The following provisions apply to uses and development associated with private marinas, public marinas, yacht clubs, community clubs, private parks, and city parks as defined in LUC 20.25E.280 and Chapter 20.50 LUC (Definitions). For the purpose of this section, these uses are referred to collectively as "recreation facility" or "recreational facilities." Where there are also critical areas present, this section applies in addition to the performance standards set forth in LUC 20.25H.055 (Critical Areas Overlay District).
2. General Requirements Applicable to all Recreational Facilities.
   a. Routine Maintenance and Repair. Routine maintenance and repair associated with existing recreational facilities is allowed. "Routine Maintenance" includes those usual acts to prevent decline, lapse, or cessation of the existing recreational facility. "Routine Repair" includes in-kind restoration to a state comparable to its original conditional within a reasonable period after decay has occurred. Improvements meeting the definition of a minor expansion are not considered maintenance or repair. Improvements not meeting the definition of routine maintenance and repair or minor expansions shall be shall be processed as new or expanded recreational facility.
   b. Minor Expansions. Minor expansion of existing recreational facilities is allowed. "Minor Expansion" includes enlargement of gross square footage, impervious

surfaces, permanent disturbance, structural lot coverage, or overwater coverage associated with the recreation facility, individually or in combination, by not more than 20 percent. Improvements not meeting the definition of routine maintenance and repair or minor expansions shall be processed as new or expanded recreational facilities.

c. Work associated with recreational facilities shall be consistent with all applicable City of Bellevue codes and standards.

d. Dimensional Requirements. Dimensional requirements contained in LUC 20.25E.050.A apply to recreational uses and development, except as modified by paragraphs C.2.e.i through C.2.e.iv of this section.

i. Modification of Shoreline Setbacks. Applications to modify the shoreline setback between 50 feet and 25 feet landward of the ordinary high water mark may be processed pursuant to LUC 20.25E.160.E (Special Shorelines Report). Applications to modify the shoreline setback between 25 feet landward of the ordinary high water mark and the ordinary high water mark shall only be allowed pursuant to LUC 20.25E.190 (Shoreline Variance).

ii. Shoreline Setbacks—Allowed Development. Only the following recreational uses and development, in addition to equipment necessary for safety, such as a lifeguard chair, are allowed in the shoreline setback:

(1) Accessory Structures: See LUC 20.25E.080.C.3.f

(2) Overwater Structures: See LUC 20.25E.080.C.3.g

(3) Shoreline Promenades: See LUC 20.25E.080.C.3.h

(4) Recreational Trails: See LUC 20.25E.080.C.3.i.

(5) Recreational Signage: See LUC 20.25E.060.J.

iii. Pervious and Impervious Surfaces - Limitations. Pervious surfaces, and when allowed impervious surfaces, associated with recreational facilities, including trails, shall be the minimum necessary to support the intended function of the recreational use, and in no event shall the total amount of pervious or impervious surfaces exceed 30% of the required shoreline setback. Impervious surfaces when allowed in the shoreline setback count towards the total maximum allowed impervious surface limit set forth in LUC 20.25E.050.A (Dimensional Requirements in the Shoreline Jurisdiction).

iv. Recreation Facility–Relationship to Residential Development. Public and Community recreation buildings or clubhouses, except structures used for moorage, storage, or other accessory uses, shall have a minimum side setback of 50 feet from adjacent residential development.

e. All utility and service lines located landward of the ordinary high water mark shall be underground, where feasible.

f. Clearing of vegetation shall be the minimum necessary for infrastructure maintenance and public safety.

g. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and/or restoration plan meeting the requirements of LUC 20.25E.060.D.

3. New or Expanded Recreational Facilities.

a. Permit Required. New or expanded recreational facilities are permitted in the Shoreline Overlay District pursuant to the process identified in LUC 20.25E.030 (Shoreline Use Charts).

b. Decision Criteria Applicable to all New or Expanded Recreational Facilities. The City shall consider the following criteria when deciding whether to approve or approve with conditions, an application for a new or expanded recreational facility in the shoreline jurisdiction.

i. Priority of Use. The proposed recreational use or development is water dependent, subordinate to a water dependent use, bears a substantial relationship to the shoreline (water oriented), or provides the public physical or visual access to the shoreline;

ii. Non-Water Related Recreation. Non-water-related recreation facilities that support non-water related, high-intensity activities, such as basketball and tennis courts, baseball and soccer fields, and skate parks, shall be located outside of shoreline jurisdiction when feasible, or when located within shoreline jurisdiction as far from the water as possible;

iii. Scale and Intensity. The scale and intensity of the proposed use is appropriate when considering the size, location, and physical characteristics of the site; and

iv. Separation by Design. The use or activity is adequately screened and separated from adjacent uses and provides sufficient landscaping and is designed and located to minimize adverse effects on existing public and private use of waters of the state.

c. Design Criteria Applicable to all New or Expanded Recreational Facilities. Design and siting of new or expanded recreational facilities shall consider and address, at a minimum, the following:

i. The design should be the minimum necessary to fulfill the intended function of the proposed recreational facility.

ii. The design should consider surrounding vegetation, topography, street patterns, parking configuration and building massing to result in a compatible fit between the proposed recreational facility and existing residential development.

iii. The proposed recreational facility should be designed so that its construction and operation does not degrade natural systems and functions.

iv. Building surfaces facing abutting residential districts should be clad with materials which are similar to or compatible with the surrounding environment and uses, and that minimize reflected lighting.

v. Building facades should incorporate elements such as stepbacks, offsets, angled facets, deep roof overhangs, recesses and other architectural features which serve to break down the scale. The larger the building, the greater the number and variety of such elements that may be necessary to achieve the effect of diminishing scale.

vi. Materials and colors used on the building facades should be compatible with nearby residential buildings and the surrounding natural environment; however, colors and materials used for the purpose of accent may be approved.

vii. Pitched roof forms are preferred to enhance the compatibility with nearby residential areas. However, under certain circumstances, a stepped roof form could be used to achieve a similar effect.

viii. Loading and refuse collection areas should be on the side of a building facing away from an abutting residential district of a lower intensity, but not in a front yard setback or within the shoreline setback.

ix. The design should preserve opportunities for public views from public spaces such as streets, street intersections, parks, and other areas of pedestrian concentration.

d. General Performance Standards Applicable to New and Expanded Recreational Facilities. In addition to the general requirements in paragraphs C.2 and C.3 of this section, the following performance standards apply to applications for new and expanded recreational facilities.

i. Shoreline Stabilization. Recreational facilities shall be designed to avoid the need for stabilization. When shoreline stabilization is required, stabilization measures shall conform to LUC 20.25E.080.F (Shoreline Stabilization).

ii. Public Access. New or expanded public recreational facilities shall provide public access to the shoreline in accordance with LUC 20.25E. 060.I (Public Access).

iii. Screening of Parking. Surface parking lots shall be screened from street level views and from ground level views of an abutting

residential district by using berms, hedges, walls, or combinations thereof. Surface parking lots should be located away from adjacent residential properties and shall comply with the parking standards contained in LUC 20.25E.060.H (Accessory Parking, Loading Spaces and Maintenance Access). Site features such as fences, walls, refuse enclosures, light fixtures, carports and storage units shall be integrated with the architectural design of the primary structure.

iv. All refuse and recycling containers shall be contained within structures enclosed on all four sides and utilize lids made of molded plastic or other sound buffering material.

v. Rooftop mechanical equipment shall be incorporated into the roof form, and shall not appear as a separate penthouse or box. Rooftop mechanical equipment may not exceed the maximum building height established in LUC 20.25E.050.A (Shoreline Dimensional Requirements).

e. New and Expanded Marinas, Yacht Clubs, and Community Clubs – Use Specific Performance Standards. All new and expanded Marinas, Yacht Clubs, and Community Clubs shall comply with the general requirements set forth in paragraphs C.2 and C.3.a through C.3.d of this section and the following use specific performance standards:

i. Separation Landscaping. New or expanded private marinas located on sites abutting residential land use districts (refer to LUC 20.10.200), shall provide a dense landscaped buffer, at least 20 feet in width, and including at least 50 percent native species along the entire street frontage abutting the residential district. All significant trees within the landscape buffer area shall be retained. Site development should maximize the retention of existing significant vegetation in order to soften the visual impact on adjacent residential uses.

ii. New or expanded marina facilities shall be designed to preclude moorage in locations that would have insufficient water depth to avoid boats resting at any time of year on the substrate of the lake and in areas, and where deep water access can be only obtained with excavation, filling, and dredging.

iii. Boat Repair Facilities. Except for marinas with a valid Boat Yard General NPDES Permit issued by the Washington State Department of Ecology, the following standards apply to vessel maintenance areas:

(1) Maintenance areas shall be sited as far from the water as is practicable, and shall be designed so that all maintenance activities that are potential sources of water or air pollution

can be accomplished over dry land, under roof, and in a contained operation; and

(2) All drains from maintenance areas must lead to a sump, holding tank, or pump out facility from which the wastes can later be extracted for treatment and/or disposal by approved methods. Drainage of maintenance areas directly into surface or groundwater shall not be allowed.

iv. Aboveground and underground fuel storage tank installations shall be located as far from the water's edge as possible while providing for appropriate separation from adjacent properties and uses, and shall comply with all State and/or local storage tank and fuel system delivery regulations.

v. No fuel storage facility or sanitary pump-out station holding tank shall be located over water.

vi. Fueling stations shall be designed and located to minimize queuing, reduce frequency of spills, and facilitate spill containment. For marina facilities located adjacent to a residential environment, no fueling or commercial launching facilities shall be located within 20 feet of a residential property line.

f. Accessory Structures in the Shoreline Setback – Development Specific Performance Standards. All applications for new accessory structures in the shoreline setback shall comply with the following limitations and development specific performance standards in addition to the general requirements set forth in paragraph C.2 and C.3.a through C.3.d of this section:

i. Accessory Structures--Limitations. One accessory structure, measuring less than 200 square feet and less than 15 feet high, which supports a water-dependant recreational use is allowed in the shoreline setback. Such an accessory structure may use or support emergency operations, such as housing emergency equipment and supplies associated with a swimming beach or dock. Accessory structures may also be established in support of water-dependent activities including water dependent educational or cultural activities

ii. Performance Standards. Applications for accessory structure shall comply with the following performance standards;

(1) The structure shall be located no closer than 10 feet landward from ordinary high water mark; and

(2) The area of shoreline setback impacted by the placement of the structure shall be mitigated by planting native vegetation in an equivalent area elsewhere in the setback on the recreational facility property.

g. Overwater Structures – Development Specific Performance Standards. All applications for new and expanded over-water structures shall comply with the following limitations and development specific performance standards in addition to the general requirements set forth in paragraph C.2 and C.3.a through C.3.d of this section:

   i. Over-water Structures--Limitations. Over-water structures are allowed only for Yacht Clubs, Community Clubs, and Marinas or for public recreation and public access facilities. Non-water-dependent commercial uses shall not be allowed over water, except where the use is appurtenant to and necessary to support water-dependent uses, such as fueling docks, restrooms, and boating-related retail services.

   ii. Performance Standards. Applications for overwater structures, other than moorage, shall comply with the following performance standards:

      (1) The structure shall provide an opportunity for substantial numbers of people to enjoy the shorelines of the state;

      (2) The structure shall be accessible to members of the public or organization membership and provide opportunities to approach the water's edge in areas where access is limited because of the presence of sensitive ecological features;

      (3) The structure shall be located as far a reasonably possible from a stream, public stormwater outfall, or adjacent to aquatic and wildlife habitat areas; and

      (4) The structure shall be the minimum size necessary to support the intended recreation function.

h. Shoreline Promenades – Development Specific Performance Standards. All applications for new and expanded shoreline promenades shall comply with the following purpose and development specific performance standards in addition to the general requirements set forth in paragraph C.2 and C.3.a through C.3.d of this section:

   i. Purpose. A shoreline promenade provides a continuous waterfront walkway generally parallel to the shoreline for the purpose of providing public recreation and water enjoyment uses. Promenades provide the public with physical and visual access to the shoreline and allow for separation of more intense activities from the water's edge. Promenades may also accommodate emergency and service vehicles. A shoreline promenade may only be developed in association with a Council-adopted master plan on public property.

   ii. Performance Standards. Applications for Shoreline Promenades shall comply with the following performance standards:

(1) Location. A shoreline promenade shall be setback a minimum of 20 feet landward of the ordinary high water mark, except where the promenade provides direct access to a moorage facility, soft shoreline stabilization has been installed, or where a Shoreline Special Report, LUC 20.25E.160.E, is used to modify the dimensional limitations listed here.

(2) Shoreline Special Report - Limitation. A Shoreline Special Report, LUC 20.25E.160.E, may only be used to modify the location limitations set forth in paragraph C.3.h.ii(1) of this section, when the proposed modification results in a net benefit to shoreline ecological functions.

(3) Public access. Promenades shall be designed to maximize public access and enjoyment of the water while protecting shoreline ecological functions.

(4) Design. Design of a shoreline promenade shall maximize visual interest through a meandering design, street furniture, public art, and other amenities and should be located in a manner which maximizes public access while not foreclosing the full range of soft stabilization and restoration techniques.

(5) Size. Within the shoreline setback, the width of the paved portion of the promenade may not exceed 20 feet except in nodes where street furniture, public art, or other amenities are planned.

(6) Materials. Promenades shall be designed with pervious surfaces except where their use is not technically feasible due to specific live load requirements necessary to safely accommodate emergency service vehicles or site soils are unsuitable.

(7) Lighting. If required, lighting shall be designed and installed to eliminate light pollution outside the corridor.

i. Recreational Trails – Development Specific Performance Standards. All applications for new or expanded, non-motorized recreational trails shall comply with the following performance standards must meet following standards in addition to the general requirements in paragraph C.2 and C.3.a through C.3.d of this section.

ii. Construction Type. Recreational trails shall be constructed of a soft-surface material or pervious, hard-surfaced material. Impervious surfaces are allowed when the surface is supported by a low-impact development practice as contained in the City's Engineering and Design Standards;

iii. Width. Trails shall be the minimum width necessary to accommodate the intended function or objective, but in no case shall the width exceed 10 feet;

iv. Location.

(1) Soft Surfaced Trails. Soft-surfaced trails may be located within the shoreline setback and may access the water edge to allow the public to view or touch the water's edge. The number of access points to the water shall be the minimum number necessary to provide the public access to the water while considering the function and planned use of the facility and protecting shoreline ecological functions.

(2) Hard-surfaced pervious trails. Hard-surfaced pervious trails may be located in the setback and may meander no closer than 15 feet from the ordinary high water mark, except that a hard-surfaced pervious path may be located closer than 15 feet to the ordinary high water mark to allow for access to a viewing facility.

(3) Impervious Surface Trails. Impervious surface trails shall be located as far away from the ordinary high water mark as feasible. In no event may an impervious surface trail be located closer than a minimum of 25 feet from the ordinary high water mark.

v. Trails shall be designed and located to avoid disturbance of significant trees and to limit disturbance of native understory vegetation and avoid disturbance of habitat used for salmonid rearing or spawning or by any species of local importance; and

vi. When critical areas are present in the shoreline setback, crossings over and penetrations into wetlands and stream riparian corridors shall be generally perpendicular to the critical area, and shall be accomplished by bridging or other technique designed to minimize critical area disturbance considering the entire trail segment and function.

4. Repair, Maintenance and Minor Expansion of Recreational Facilities.

a. Permit Required. In accordance with C.2 of this section, maintenance, repair, and minor expansion activities are allowed subject to the permit requirements of LUC 20.25E.160 (Shoreline Substantial Development Permits).

b. Performance Standards. Proposals for minor repairs, maintenance, and minor expansion shall comply with the following performance standards in addition to the general requirements contained in paragraph C.2 of this section.

i. Maintenance and repair activities shall be the minimum necessary to restore the facility to its original design condition, function, and capacity.

ii. Maintenance, repair, and minor expansion activities shall comply with applicable shoreline modifications design requirements as established by LUC 20.25E.080.

iii. Maintenance, repair, and minor expansion activities on public recreation facilities shall be undertaken in a manner that would not preclude shoreline public access, consistent with the requirements contained in LUC 20.25E.060.I (Public Access).

iv. Materials used for maintenance, repair, and minor expansions may be similar to those used for the original construction except that material requirements for over-water structures or moorage associated with a recreational facility shall comply with LUC 20.25E.080.E.3.C (Non-residential moorage materials).

v. Maintenance and repair of accessory structures in the shoreline setback shall comply with repair standards set forth in LUC 20.25E.040 for nonconforming shoreline conditions. Minor expansions of accessory structures located in the shoreline setback are prohibited, except as consistent with the performance criteria of C.3.d and C.3.f

vi. Where maintenance, repair, and minor expansion activities negatively impact the visual quality of the shoreline or surrounding neighborhood associated with the existing facility, screening and/or replacement landscaping shall be provided to maintain the shoreline aesthetic quality that existed before the activities were undertaken.

D. Transportation.

1. Applicability. This paragraph D applies to transportation uses and development identified in the Transportation and Utility Use Chart in LUC 20.25E.030 and located in the Shoreline Overlay District in addition to the provisions of Chapter 14.60 BCC (Transportation Development Code), Chapter 14.30 BCC (Right-of-Way Use Code); and Chapter 14.25 BCC (Vacation of Public Right-of-Way).

2. General Requirements Applicable to all Transportation Uses and Development.

   a. Routine Maintenance and Repair. Routine maintenance and repair associated with existing transportation facilities and public rights-of-way is allowed. "Routine Maintenance" includes those usual acts to prevent decline, lapse, or cessation of the existing transportation facility or right-of-way. "Routine Repair" includes in-kind restoration to a state comparable to its original conditional within a reasonable period after decay has occurred. For the purpose of this section, repair and maintenance of developed rights-of-way includes removing and replacing improvements within the area of permanent disturbance and expansion of paved areas, provided the area of permanent disturbance outside the developed right-of-way is not expanded. Improvements meeting the

definition of a minor expansion or a new transportation facility are not considered maintenance or repair.

b. Minor Expansion. Minor expansion of existing transportation facilities is allowed. "Minor expansion" includes enlargement of the permanent disturbance associated with the transportation facility to the edge of the unimproved right-of-way or existing corridor provided the area of permanent disturbance does not impact critical areas and critical area buffers and shoreline ecological functions are not adversely affected. Improvements not meeting the definition of routine maintenance and repair or of minor expansions shall be processed as new and expanded transportation facilities.

c. Transportation facilities must be located and designed to minimize negative aesthetic impacts upon shoreline areas and to avoid and minimize impacts to existing land uses, public shoreline views, public access, and the natural environment.

d. Transportation and utility facilities shall be required to the greatest extent feasible to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.

e. Transportation facilities located in the shoreline jurisdiction shall be designed and maintained to prevent erosion and to permit the natural movement of surface water.

f. Clearing of vegetation within areas of permanent disturbance associated with transportation uses and development shall be the minimum necessary for infrastructure maintenance and public safety. The City shall give preference to mechanical means rather than the use of herbicides for the clearing of vegetation in the shoreline jurisdiction.

g. Areas of temporary disturbance and new permanent disturbance associated with a maintenance, repair, or minor expansion projects on an existing transportation facility shall be minimized and mitigated, and/or restored to pre-project conditions pursuant to a mitigation and/or restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

3. New and Expanded Transportation Uses and Development.

a. Permit Required. New and expanded transportation uses and development are permitted in the shoreline jurisdiction pursuant to the process identified in LUC 20.25E.030 (Shoreline Use Charts) and subject to showing that there is no technically feasible alternative with less impact on shoreline ecological functions, where required. (Refer to LUC 20.25E.060.C)

b. General Performance Standards applicable to all Transportation Uses and Development. All new or expanded transportation uses or development shall comply with the following general performance standards in addition to the general requirements contained in paragraph D.2 of this section and use and development-specific performance standards in paragraphs D.3.c through D.3.i of this section. Where critical areas are involved, the performance standards

in this paragraph are in addition to those contained in LUC 20.25H.055.C.2.b (Critical Areas Overlay District).

i. Where required pursuant to LUC 20.25E.030 Transportation and Utilities Chart Note (2), an applicant shall demonstrate that no technically feasible alignment or location alternative with less impact exists for the proposed transportation use or development pursuant to the requirements contained in LUC 20.25E.060.D (Mitigation Sequencing). Transportation development that provides access to approved shoreline uses is not required to demonstrate that no technically feasible alternative exists.

ii. New or expanded transportation uses and development should be designed to minimize impacts to shoreline ecological functions. To minimize impacts, the design should locate facilities outside of critical areas and their buffers, aquatic areas and the shoreline setback, and habitat used by salmonids or by any species of local importance, except where no technically feasible alternative exists;

iii. Disturbance of shoreline features, including vegetation and soils, shall be minimized;

iv. Transportation uses and development within shoreline jurisdiction shall be designed with the minimum permanent disturbance feasible, and walls and other design techniques shall be employed to minimize the impact on shoreline ecological functions;

v. Transportation uses and development shall be designed to provide frequent safe crossings for pedestrians and bicycles seeking access to public portions of the shoreline;

vi. Low impact development techniques should be used where feasible for transportation uses and development and related drainage system construction;

vii. Transportation uses and development shall be designed to fit the topography so that alterations to the natural site conditions will be minimized; and,

viii. Vegetation and trees installed in association with new and expanded transportation uses or development shall be selected and located so that they enhance public views of the water from the use or development to the maximum extent feasible.

c. Highway and Street Rights-of-Way. The following use-specific performance standards apply in addition to the general performance standards contained in paragraph D.3.b of this section.

i. New and expanded highway and street rights-of-way shall be designed to include public access amenities, such as benches or viewing areas and public sign systems, if an area is available for the improvement(s)

and if there is a view or public access to the water from the area pursuant to the requirements contained in LUC 20.25E.060.I;

ii. New or expanded shoreline street ends shall incorporate public access or other public recreational opportunities consistent with the requirements contained in LUC 20.25E.060.I (Public Access); and,

iii. Shoreline street ends shall not be vacated, except in compliance with RCW 35.79.035, now or hereafter amended, and Chapter 14.35 BCC (Vacation of Public Right-of-Way).

d. Railroads. The following use-specific performance standards apply in addition to the general performance standards contained in paragraph .3.b of this section.

i. New railroad tracks shall be permitted in the shoreline jurisdiction only if necessary to serve lots in the shoreline jurisdiction;

ii. Where possible, new railroads in the shoreline jurisdiction shall use existing highway or rail corridors;

iii. Existing railroad tracks may be expanded within existing rail corridor; and,

iv. All railroads shall provide means for the public to overcome the physical barrier created by the railroad and gain access to the shoreline.

e. Pedestrian and Bicycle Facilities. Refer to LUC 20.25E.070.C.3.i (Specific Use Regulations – Recreation for performance standards applicable to standalone pedestrian and bicycle facilities that are not associated with street rights-of-way.

f. Bridges and Culverts Associated with Transportation Uses and Development. The following development-specific performance standards apply in addition to the general performance standards contained in paragraph D.3.b of this section.

i. New and expanded bridges shall be designed to be the minimum necessary to support the intended use or development

ii. New and expanded bridges and culverts shall be designed consistent with applicable performance standards contained in 20.25H.055C (Critical Areas Overlay District);

iii. New and expanded bridges, excluding bridges associated with pedestrian and bicycle uses, shall include pedestrian amenities, such as benches or viewing areas and public sign systems, if an area is available for the improvement(s) and if there is a view or public access to the water from the area pursuant to the requirements contained in LUC 20.25E.060.I; and,

iv. New or expanded bridges for pedestrian and bicycle uses shall comply with the recreational trail standards contained in LUC 20.25E.070.C.3.i.

g. Regional Light Rail Transit Facility or System.

As used in this subsection, Regional Light Rail Transit Facility or System refers to a specific type of essential public facility that is defined in the Light Rail Transit Overlay at LUC 20.25M.020.D and E. All new or expanded structures and improvements associated with this use are allowed as provided in the Transportation and Utilities Chart at LUC 20.25E.030 subject to compliance with the provisions of this subsection.

i. General. Pursuant to LUC 20.25M.010.D.1.d, the provisions of this Part 20.25E LUC (Shoreline Overlay District), apply except as modified by this subsection.

ii. No Technically Feasible Alternative – Determined Based on Use Approval Process.

(1) Use Approved through Development Agreement. A Regional Transit Authority is not required to demonstrate that there is no other technically feasible alignment or location alternative with less impact for any RLRT facility; provided, that the alignment location and profile of the RLRT system or facility use has been approved by the City Council pursuant to an adopted resolution or ordinance, or by a development agreement consistent with the terms of LUC 20.25M.030.B.1. The following standards shall constitute the exclusive transportation use regulations applicable to Regional Light Rail Transit facilities and systems that are approved by the City Council pursuant to an adopted resolution or ordinance, or by a development agreement:

(a) General Requirements contained at LUC 20.25E.070.D.2.a and b governing routine maintenance, repair and minor expansions to regional light rail transit facilities and systems.

(b) New and expanded regional light rail transit facilities and systems shall comply with the terms of subparagraphs a. through e. of LUC 20.25E.060.C.2.

(c) New and expanded bridges associated with a light rail transit facility or system shall be designed to be the minimum necessary to support the intended use or development.

(d) New and expanded bridges and culverts shall be designed consistent with applicable performance standards contained in 20.25H.055.C.3.e (Critical Areas Overlay District).

(2) Use Approved through a Shoreline Conditional Use Permit. When an RLRT system or facility use has not been permitted outright in a City Council resolution or ordinance or by a development agreement and requires approval of a Shoreline Conditional Use Permit pursuant to LUC 20.25M.030.B.2, the Regional Transit Authority shall demonstrate that no technically feasible alignment or

location alternative with less impact to shoreline functions and values exists as required by the terms of LUC 20.25E.060.C (Technical Feasibility Analysis), and shall comply with all applicable performance standards of Part 20.25E LUC.

h. Commercial Float Plane Terminals.

i. General.

(1) Helipads. Overwater helipads are prohibited in the shoreline jurisdiction.

(2) Private Float Plane Use. Departures and landings of private float planes are not regulated under the Bellevue SMP. Moorage of private float planes must comply with the provisions contained in LUC 20.25E.080.F (Non-Residential Moorage).

ii. Performance Standards. The following use-specific performance standards apply in addition to the general performance standards contained in paragraph D.3.b of this section, when siting, designing, and operating commercial float plane landing and moorage facilities.

(1) The use shall be compatible with surrounding uses;

(2) Taxiing patterns to be used by float planes shall minimize noise impacts on area residents and wildlife, and minimize interference with navigation and moorage; and

(3) Float plane facilities and services shall comply with all applicable Bellevue codes, Federal Aviation Administration standards and requirements for fuel, oil spills, safety and firefighting equipment, noise, and pedestrian and swimming area separation, and applicable U.S. Army Corps of Engineers requirements.

i. Ferry Terminals.

i. Performance Standards. The following use-specific performance standards apply in addition to the general performance standards contained in paragraph D.3.b of this section, when siting, designing, and operating ferry terminals.

(1) Ferry terminals shall be designed and located to minimize impacts to surrounding uses when constructing and operating the use;

(2) Associated structures supporting the ferry terminal, other than moorage for the ferry terminal, are prohibited over water;

(3) Equipment shall be stored within an enclosed structure;

(4) Facilities, equipment, and established procedures for the containment, recovery, and mitigation of spilled petroleum or hazardous materials shall be provided; and

(5) The City will make the determination if any parking and/or a passenger loading area will be required.

4. Maintenance, Repair and Minor Expansions.

   a. Permit Required. Maintenance, repair and minor expansion activities are allowed subject to the permit requirements of LUC 20.25E.160 (Shoreline Substantial Development Permits).

   b. Performance Standard. The applicant shall comply with the following performance standard in addition to the general requirements contained in paragraphs D.2 and D.3 of this section.

      i. Maintenance, repair, and minor expansion activities shall be undertaken in a manner that would not preclude shoreline public access, consistent with the requirements contained in LUC 20.25E.060.I (Public Access).

      ii. The nonconforming shoreline conditions provisions of LUC 20.25E.040 do not apply.

E. Utilities.

1. Applicability. The following provisions apply to utility systems and facilities identified in the Transportation and Utility Use Chart in LUC 20.25E.030 in addition to the provisions of LUC 20.20.255 (Electrical Utility Facilities) 20.20.650 (Public Utilities – Design and performance standards). This section does not apply to ancillary residential utility connections. See LUC 20.25E.065.

2. General Requirements Applicable to all Utility Uses and Developments.

   a. Routine Maintenance and Repair. Routine maintenance and repair associated with existing utility facilities and systems is allowed. "Routine Maintenance" includes those usual acts to prevent decline, lapse, or cessation of the existing utility. "Routine Repair" includes in-kind restoration to a state comparable to the original conditional within a reasonable period after decay has occurred. Improvements meeting the definition of a minor expansion or a new utility are not considered maintenance or repair.

   b. Minor Expansions. Minor expansions of existing utility facilities and systems is allowed. "Minor Expansion" includes enlargement of the permanent disturbance associated with the utility facility or system by up to 20 percent when necessary to comply with a mandated code update, or to accommodate changes in technology or design, changes in maintenance practice, or minor increases in volume from the area served by the existing utility facility or system. Improvements not meeting the definition of routine maintenance and repair or of minor expansions shall be processed as new or expanded utilities.

   c. Work associated with utility facilities and systems shall be consistent with all applicable City of Bellevue codes and standards.

d. Clearing of vegetation within utility corridors shall be the minimum necessary for infrastructure maintenance and public safety.

e. Areas of temporary disturbance and new permanent disturbance associated with a maintenance, repair, or minor expansion projects on an existing utility shall be minimized and mitigated, and/or restored to pre-project conditions pursuant to a mitigation and/or restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

3. New and Expanded Utilities.

a. Permit Required. New and expanded utility systems and facilities are permitted in the shoreline jurisdiction pursuant to the process identified in 20.25E.030 (Shoreline Use Charts) only when there is no technically feasible alternative with less impact on shoreline ecological functions. (Refer to LUC 20.25E.060.C).

b. General Performance Standards applicable to all Utility Uses and Development. Where an applicant demonstrates that no technically feasible alternative with less impact exists pursuant to the requirements contained in LUC 20.25E.060.D (Mitigation Sequencing), then the applicant shall comply with the following performance standards. Where critical areas are involved, the performance standards in this paragraph are in addition to those contained in LUC 20.25H.055.C.2.b (Critical Areas Overlay District).

i. New or expanded utility systems and facilities shall be designed and aligned to minimize impacts to natural systems and features and shall minimize topographic modification.

ii. New or expanded utility systems and facilities shall be co-located underground and within existing or planned improved rights-of-way, driveways, and/or utility corridors whenever possible.

iii. New or expanded utility systems and facilities should be designed to minimize impacts to shoreline ecological functions. To minimize impacts, the design should locate systems and facilities outside of critical areas and their buffers, aquatic areas and the shoreline setback, except where no technically feasible alternative exists (refer to LUC 20.25E.060.C);

iv. Stormwater Outfalls and Discharge Points. New or expanded stormwater outfalls and discharge points shall meet the following standards:

(1) Any outfall or discharge point to the shoreline aquatic area shall be located landward of the ordinary high water mark in a manner that limits impact to existing native vegetation while providing appropriate protection against erosion and sedimentation. Where a location ordinary high water mark is required, outfall should discharge waterward of the littoral zone or further to protect nearshore habitat; and

(2) Any disturbed upland or aquatic areas shall be revegetated and enhanced with native plants and habitat features. (Refer Shoreline Handbook, now or as amended.)

v. Where the visual quality of the shoreline or surrounding neighborhood will be negatively impacted, new or expanded utility systems and facilities shall incorporate screening and landscaping sufficient to maintain the shoreline aesthetic quality and shall provide screening of facilities from the lake and adjacent properties in a manner that is compatible with the surrounding environment.

vi. New or expanded utilities shall incorporate shoreline public access, consistent with the requirement contained in LUC 20.25E.060.I, (Public Access).

vii. When feasible, stormwater conveyance and detention facilities shall be designed to incorporate native trees, shrubs and groundcover plants and, where applicable, native aquatic vegetation.

viii. Pipelines constructed under aquatic areas shall be composed of suitable materials which minimize potential future failures and failure impacts.

ix. When allowed, utility facilities located above ground shall be:

(1) Housed in a building that incorporates design features that are compatible with the character of the surrounding neighborhood or area, unless housing the facility in a structure would fundamentally interfere with the maintenance and operation of the facility.

(2) Sight-screened, if the facility does not conform with the standards in paragraph E.3.b.ix.(1) of this section, with evergreen trees, shrubs, and other native landscaping materials planted in sufficient depth to form an effective sight barrier within five (5) years.

4. Maintenance, Repair, and Minor Expansions.

a. Permit Required. Maintenance, repair and minor expansion activities are allowed subject to the permit requirements of 20.25E.160 (Shoreline Substantial Development Permits).

b. Performance Standards. The applicant shall comply with the following performance standards.

i. Maintenance, repair, and minor expansion activities shall be undertaken in a manner that would not preclude shoreline public access, consistent with the requirement contained in LUC 20.25E.060.I (Public Access).

ii. Where maintenance, repair, and minor expansion activities negatively impact the visual quality of the shoreline or surrounding

neighborhood associated with the existing facility, screening and/or replacement landscaping shall be provided to maintain the shoreline aesthetic quality that existed before the activities were undertaken.

iii. The nonconforming shoreline conditions provisions of LUC 20.25E.040 do not apply.

20.25E.080 SHORELINE MODIFICATIONS

A. Applicability.

This section contains requirements and standards that apply to all shoreline modifications in the Shoreline Overlay District. These requirements and standards are in addition to the procedures, permit requirements, and standards set forth in other sections of the Bellevue SMP.

B. Breakwaters, Jetties, and Groins.

1. Prohibited Development.
    a. Jetties and groins are prohibited within the Shoreline Overlay District and should be removed when the use for which they were constructed is discontinued or the purpose or function for which the jetty or groin was originally installed no longer exists.
    b. Solid landfill or rockery breakwaters are prohibited in the Shoreline Overlay District.
2. Breakwaters – Limitations. Breakwaters are allowed only when there is a demonstrated need to protect existing recreation or non-residential moorage uses from damage caused by natural wave action.
3. Breakwaters – Performance Standards. Breakwaters, when allowed, require a Shoreline Conditional Use permit (refer to LUC 20.25E.180), and the following performance standards shall be met.
    a. The applicant shall demonstrate that no technically feasible alternative exists (refer to LUC 20.25E.060.C).
    b. Breakwaters shall be designed by a qualified professional using minimally invasive techniques to protect shoreline ecological functions and shall not preclude fish passage or adversely affect sediment migration.
    c. As part of the application submittal, the qualified professional designing the breakwater must certify that the breakwater is the minimum necessary to accomplish its purpose.
    d. The applicant shall demonstrate that the design will not result in a net loss of shoreline ecological functions.
    e. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

C. Clearing, Grading, and Fill in the Shoreline

1. Clearing, Grading, and Fill – Limitations.

    a. All clearing, grading, excavating, and filling in the Shoreline Overlay District shall comply with the provisions of this paragraph C, LUC 20.25H.180 (Areas of Special Flood Hazard), Chapters 24.06 (Storm and Surface Water Utility Code) and 23.76 (Clearing and Grading Code) BCC, and the City's engineering and clearing and grading development standards, now or as amended. Bellevue City Code provisions of general applicability are not part of the SMP unless specifically adopted by reference.

    b. Minimum Necessary. Clearing, grading, excavation, and filling is permitted only in association with an approved use or development and shall be the minimum necessary to support the approved use or development. Filling to create dry land is prohibited.

    c. Filling and excavation, excluding dredging (see LUC 20.25E.080.D), below the ordinary high water mark is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:

        i. Placement of beach or aquatic substrate when part of an approved ecological restoration activity;

        ii. Replenishing sand on public and private community beaches;

        iii. Alteration, maintenance, or repair of existing transportation facilities and utilities located within the Shoreline Overlay District, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C.

        iv. Constructing facilities for public water-dependant uses or public access; provided that the excavation or filling is limited to the minimum required to accommodate the use or facility, and no technically feasible alternative is available as set forth in LUC 25.25E.060.C;

        v. Activities incidental to the repair of legally-established shoreline stabilization measures;

        vi. Approved flood control projects;

        vii. Components of an approved stream restoration project, including vegetation restoration; and

        viii. Activities that are part of a remedial action plan approved by the Department of Ecology pursuant to Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or otherwise authorized by the Washington State Department of Ecology, the United States Army Corps of Engineers, or other agency with jurisdiction.

2. Filling and Excavation – Additional Analysis Required. The applicant shall provide the following project analysis together with any submittal for a shoreline application that proposes filling or excavation activities.
    a. The overall value to the public resulting from the excavation or fill as opposed to the value of the shoreline in its existing state and evaluation of alternatives to fill that would achieve some, if not all, objectives of the proposal;
    b. The effects on shoreline ecological functions, including but not limited to, functions of the substrate of lakes and streams, effects on aquatic organisms, including the food web, effects on vegetation functions, effects on local currents, erosion, and deposition patterns, effects on surface and subsurface drainage, and the effects on floodwaters and the floodplain.
    c. If the filling or excavation will require shoreline stabilization to protect materials placed or removed and whether such stabilization meets the polices and standards of the shoreline master program;
    d. Whether the fill or excavation will alter the normal flow of floodwater, including the obstruction of flood control channels or swales; and
    e. Whether public or tribal rights to the use and enjoyment of the shoreline and its resources are impacted.
3. Filling and Excavation – Performance Standards.
    a. Fill Material—Suitability. Fill material shall not be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment. Fill shall be properly stabilized and maintained during and following construction to prevent erosion.
    b. Stockpiling. For development occurring outside the shoreline setback, dirt, rocks, and similar material shall not be stockpiled in the shoreline setback. For development occurring within the shoreline setback, stockpiling is allowed and shall be the minimum necessary to support the development and shall be located in an area that having the least impact to shoreline functions. If any stockpiling is required, best management practices shall be implemented to prevent discharge of sediments or pollutants into receiving waters. (Refer to Chapter 23.76 BCC (Clearing and Grading Code) and the City's clearing and grading development standards, now or as amended).
    c. Excess Material. All excess material resulting from clearing, grading, excavation, and filling activities shall be removed from the shoreline site and disposed of in a manner that prevents any of the excess material from entering surface or ground waters in accordance with Chapters 24.06 (Storm and Surface Water Utility Code) and 23.76 (Clear and Grade Code) BCC, and applicable engineering and development standards.

D. Dredging and Dredge Material Disposal

1. Prohibited Activities.
   a. Dredging for the sole purpose of obtaining fill or construction material is prohibited.
   b. Dredging materials disposal is prohibited in the aquatic environment.
2. Dredging – Limitations. Dredging is allowed only for the following activities, and when the applicant demonstrates the project will result in not net loss of ecological functions using appropriate technical studies:
   a. To maintain navigability; provided the dredging is limited to the extent of the previously approved dredging and/or existing authorized location, depth, and width;
   b. To maintain an existing agricultural activity that supports an existing agricultural use within City Parks;
   c. To remedy conditions endangering the public health, safety or welfare;
   d. To carry out a habitat improvement project; and
   e. Dredging performed pursuant to a remedial action plan approved under authority of the Model Toxics Control Act (MTCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or pursuant to other authorization by the Washington State Department of Ecology, U.S. Army Corps of Engineers, or other agency with jurisdiction.
3. Dredging and Disposal - Performance Standards. Proposals for dredging must comply with each of the following performance standards:
   a. The proposal, including any necessary mitigation, will result in no net loss of shoreline ecological functions.
   b. Dredging shall be limited to the minimum necessary and appropriately balance navigational or other needs with impacts to shoreline ecological functions. The minimum necessary proposal shall be determined based on an analysis of technically feasible alternatives and consider both short-term and long-term impacts associated with the action, including mitigation measures.
   c. The dredging shall not cause long-term adverse impacts to water quality, aquatic habitat, or human health in adjacent areas.
   d. The lateral spread of re-suspended sediment created by a dredging operation shall be contained within previously approved limits.
   e. To prevent impairment of water quality any dredge spoil temporarily stored in an upland location must be set back an adequate distance from the water to prevent the discharge of pollutants to the receiving water, and the containment measure shall contain sufficient filtering to prevent discharge

of sediments to the receiving water. Temporary disposal sites shall not be allowed except in areas designated by the City of Bellevue.

f. A permanent dry land disposal site, or submerged disposal site outside of the City of Bellevue, has been approved.

g. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation or restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

E. Non-Residential Moorage Facilities, Boat Ramps, and Launches.

1. Applicability. Non-residential moorage facilities, boat ramps and launches are allowed in the Shoreline Overlay District when in compliance with paragraph E of this section. This paragraph E does not apply to residential development governed pursuant to LUC 20.25E.065.

2. Definitions. The following definitions apply only to paragraph E of this section.

   a. Facility Segment. The walkway, moorage platform, finger-pier, or cover portion of a dock.

   b. Walkway. The portion of the dock that is connected to the shoreline at the landward end and provides access to the moorage platform.

3. General Requirements Applicable to all Non-residential Moorage Facilities, Boat Ramps and Launches.

   a. New skirting, covered moorage, including boatlift canopies, is prohibited.

   b. Minimum necessary. Maintenance and repair shall be the minimum necessary to restore the facility to its original design, function, and capacity.

   c. Construction Materials. Use environmentally neutral materials not materials treated with known toxic preservatives and approved by the Environmental Protection Agency for use in aquatic environments. Dock materials shall not be treated with pentachlorophenol, creosote, chromate copper arsenate (CCA) or comparably toxic compounds. If (ammoniacal copper zinc arsenate) (ACZA) materials are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. Preservative and surface treatments are limited to products approved for use in aquatic environments and must be applied according to label directions. Construction hardware that comes into contact with water either directly or through precipitation and that discharges either directly or indirectly into surface waters shall not be susceptible to dissolution by corrosion.

   d. Modification of Standards. A Special Shorelines Report may be used to modify the standards of this section E when the modification results in a net benefit to shoreline ecological functions. Refer to LUC 20.25E.160.E (Mitigation Sequencing).

4. New and Expanded Non-Residential Moorage Facilities, Boat Ramps and Launches.

   a. Permit Required. New and expanded non-residential moorage, boat ramps, and launches are permitted in the shoreline jurisdiction pursuant to the process in identified in LUC 20.25E.030 (Shoreline Use Charts).

   b. Moorage facilities shall be located in an area where impacts to shoreline ecological functions can be avoided or mitigated to achieve the standard of no net loss of ecological function. To ensure no net loss of ecological functions occurs, the Director may require a compensatory mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing), when impacts related to new or expanded moorage facilities are identified and not addressed by the performance standards set forth in paragraph E.4.d of this section.

   c. New or Expanded Non-Residential Moorage Facilities - Design Criteria. Design and siting of new or expanded Non-residential moorage facilities shall address, at a minimum, the following criteria:

      i. Facilities should be designed to avoid dredging to establish new moorage, and the need for maintenance dredging consistent with LUC 20.25H.080.D

      ii. Facilities should be designed to avoid impacts to shoreline ecological functions through consideration of water depth, water circulation, sediment inputs and accumulation, and wave action.

      iii. Facilities should be located to avoid impacts to shoreline ecological functions through avoidance of submerged aquatic vegetation, shoreline associated wetlands, or habitat associated with species of local importance.

      iv. Facilities shall be designed to minimize overwater coverage and be the minimum size necessary to provide the desired moorage function when considering the beam and draft of the type of boat anticipated to be moored. Preference shall be given to designs that provide two berths per finger pier.

      v. The ability of the site upland from the ordinary high water mark to accommodate the necessary support facilities.

      vi. The use of mooring buoys to accommodate additional moorage.

      vii. Transient Moorage. Transient moorage is allowed within a new or expanded non-residential moorage facility.

      viii. Liveaboards. Liveaboards are allowed when distributed through the facility. Areas proposed for occupation by liveaboards should include properly planned and designed utility connections and storage facilities for each liveaboard slip.

      ix. Stacked Boat Storage. Facilities should incorporate, to the maximum extent feasible, upland stacked boat storage unless:

(1) No suitable upland locations exist for such facilities;

(2) The applicant demonstrates that water moorage would result in fewer impacts to shoreline ecological functions;

(3) The applicant demonstrates that water moorage would enhance public use of the shoreline; or

(4) The proposal is part of a non-residential moorage facility development in the Recreational Boating shoreline environment where the objective is enhanced public access and the location of an upland stacked storage facility would conflict with the objective of public use of the shoreline.

x. Utilities and Services. Utility and service lines serving docks and piers should be located below the pier deck and out of the water.

d. New and Expanded Non-Residential Moorage Facilities – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.

i. Location of Facilities in Meydenbauer Bay. Non-residential moorage facilities shall not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored. In no event shall a non-residential moorage facility extend to a point that impedes public navigation.

ii. Existing covered non-residential moorage facilities in Meydenbauer Bay shall not expanded beyond their existing outer limits or the boundary described as:

All Azimuths being South; commencing at the E 1/4 Sec. corner of Sec. 31 T 25N, R 5E, W.M., whose "X" coordinate is 1,661,520.58 and whose "Y" coordinate is 225,661.29 of the Washington Coordinate System, North Zone, and running thence on an Az of 78°51′17″ a distance of 963.76 feet to a point whose coordinate is "X" 1,660,575.00, "Y" 225,475.00 of said coordinate system; thence on an Az of 37°26′00″ for a distance of 60 feet to a point being the true beginning of this description; thence on an Az of 316°19′15″ a distance of 495.14 feet; thence on an Az of 2°21′10″ a distance of 42.52 feet; thence on an Az of 312°06′17″ a distance of 415.00 feet; thence on an Az of 37°24′19″ a distance of 118.06 feet to an intersection with the northwesterly extension of the northwesterly line of Reserve "A" at the N. end of Ronda Street between Blocks 29 and 38, Plat of Moorlands, as recorded in Vol. 4 of Plats, Page 103, records of King County, Washington, said point of intersection being the terminus of this line description.

iii. Setbacks for Facilities. Moorage facilities constructed with an external dock perimeter where access to public waters is provided through a

central point on the waterward end of the facility shall provide a minimum 10-foot setback from property line projections. Moorage facilities constructed with an open-sided design where access to moorage is taken directly from public waters shall provide a minimum of 50 feet of setback from property line projections.

iv. Dock and Pier Access. Docks and piers shall be accessed from upland support areas through a ramp or gangway and walkway system with the first set of finger piers (ells) located at a depth of 9 feet or greater. Facilities for human-powered vessel launching and moorage may be located in depths of less than 9 feet.

v. The width and length of all structures shall be limited to what is reasonable for the intended use; provided that:

(1) Walkways shall not exceed 8 feet in width;

(2) Ells shall not exceed 4 feet in width; and

(3) Ramps and gangways shall not exceed 6 feet in width.

vi. Docks, ramps, piers, and walkways shall be grated or surfaced with light penetrable materials. To the extent feasible, structures shall be designed to minimize overwater coverage and avoid shading of aquatic vegetation.

vii. Impacts to shoreline ecological functions shall be minimized through avoidance of submerged aquatic vegetation, shoreline associated wetlands, and nesting and spawning areas.

viii. Impacts to adjoining residential uses shall be minimized through use of appropriate screening, and by locating high impact areas away from uses on adjacent properties.

ix. Docks shall be designed with piers and other structures placed to facilitate, rather than to obstruct, water circulation. Basins shall be designed to prevent stagnant water that tends to collect debris or cause shoaling or flushing problems.

x. Moorage facilities shall be designed to protect against wakes caused by vessel traffic without the need for a breakwater.

xi. Lighting and Safety. Design shall include adequate safety features and be designed to facilitate emergency response, including, but not limited to the following:

(1) Design and locate facility security gates and walkways maximizing emergency access to the water and minimizing blockage of the view from the shore. Walkway access locations should be in close proximity to facility loading and short term parking areas;

(2) Design and locate lighting to illuminate walkways during the evening hours. Walkway lighting should be flush mounted to the dock surface or screened to avoid spillover light emissions;

(3) Locate flotation devices in designated areas at regular intervals throughout the non-residential moorage facility to ensure the safety of facility users;

(4) Include adequate fire safety apparatus, including dock surface markings and reflectors at intervals and location specified by the City's Fire Department; and

(5) Mark the facility with reflectors or other measures to prevent unnecessarily hazardous conditions for water surface users during the day or night.

xii. Interference with Other Uses. Facilities shall not interfere with the public use and enjoyment of the water or create a hazard to navigation.

xiii. Public access shall be provided in accordance with LUC 20.25E.060.I (Public Access).

xiv. Facility Addressing—Waterward. Facilities shall include address signs that are visible from the water. All signage shall conform to the signage requirements contained in LUC 20.25E.060.J (Signage in the Shoreline).

xv. Aircraft Moorage. Aircraft moorage is allowed as part of a non-residential moorage facility and shall be the minimum size necessary to accommodate the use. All identified and related impacts to shoreline ecological functions shall be mitigated through implementation of a mitigation plan pursuant to LUC 20.25E.060.D (Mitigation Sequencing).

xvi. Waste Services. At the minimum, Facilities shall provide the following waste services:

(1) One marine pump-out facility for use by the general boating public. This facility must be clearly marked for public use; and

(2) Each moorage segment shall include a solid waste collection facility, including but not limited to, garbage, maintenance waste, recycling and garbage.

xvii. Facilities shall develop a maintenance, repair, and operations plan that demonstrates compliance with the requirements of this SMP and other applicable codes in accordance with standards established by the Director.

e. New and Expanded Motorized Boat Ramps and Launches - Decision Criteria. In determining whether to approve an application for a motorized boat launch, the City shall the following criteria:

i. Adequacy of public streets to serve the facility based on traffic generated from using the facility;

ii. Impacts on adjacent uses, including noise, light, and glare are minimized; and,

iii. Ramp surfaces may be concrete, precast concrete, or other hard permanent substance. Loose materials, such as gravel or cinders, shall not be used.

f. Non-motorized Boat Ramps and Launches - Design Criteria. Design and siting of non-motorized boat ramps and launches shall address, at a minimum, the following criteria:

i. The preferred construction materials for ramps designed for non-motorized boats is gravel or other similar natural material; and

ii. Floats or platforms designed to launch non-motorized boats are allowed.

g. New and Expanded Boat Ramps and Launches – Performance Standards. The following use-specific performance standards apply in addition to the general performance standards in paragraph E.3 of this section.

i. The proposed size of the boat ramp or launch shall be the minimum necessary to safely launch the intended craft;

ii. Removal of native upland vegetation shall be minimized to the greatest extent feasible;

iii. Water currents and normal wave action shall be suitable for launch activity;

iv. Adequate on-shore parking and maneuvering areas shall be provided based on projected demand. Provisions shall be made to prevent spillover outside designated parking areas. Parking, access, and circulation must be consistent with LUC 20.25E.060.H (Accessory Parking, Loading Space and Maintenance Access);

v. Boat launches shall be located so that they do not significantly impact fish and wildlife habitats and shall not occur in areas with native emergent vegetation;

vi. Boat launches shall be located to provide access to a sufficient water depth to allow use by boats without maintenance dredging;

vii. Ramps shall be designed to allow for ease of access to the water with minimal impact on the shoreline and water surface;

viii. Moorage associated with a boat launch or ramp shall meet the applicable performance standards for new or expanded non-residential moorage facilities in section F.4.d; and

ix. Mitigation is required for impacts related to the launch facility in accordance with LUC 20.25E.060.D (Mitigation Sequencing).

5. Repair and Maintenance Performance Standards Applicable to Non-Residential Moorage Facilities, Boat Ramps and Launches.

a. Maintenance and repair as used in this section includes actions to repair a failed or degraded component of a facility with the intent of restoring the facility to its original design condition, function, and capacity. Expansion or

reconfiguration of facility components do not constitute repairs and will be processed as a new or expanded non-residential moorage facility, boat ramp, or launch in accordance with the requirements of this section.

b. Existing Non-Residential Moorage Facilities - Repair and Maintenance Performance Standards. Repairs of non-residential moorage facilities shall comply with the following:

i. Canopy or Facility Decking Repair. Replacement of more than 50 percent of the surface of any overwater segment of a non-residential moorage facility within a 5-year period requires the segment surface be replaced with light penetrable materials, such as grating or translucent surfaces. Accept that floating docks must use light-penetrable materials to the extent the existing structure facilitates light transmission with the addition of the light-penetrating materials. Otherwise, floating docks may use materials similar to those used for original construction unless in conflict with other requirements of this section.

ii. Piling Repairs. Capping, collaring, or sleeving, of more than 50 percent of the piling of any overwater segment of a non-residential facility within a 5-year period requires the segment surface be replaced with light penetrable materials (grating or translucent surface).

iii. Facility Substructure Repair. Repair or replacement of more than 50 percent of the substructure (stringers, joists, or beams) of any overwater segment of a non-residential moorage facility within a 5-year period requires replacement with light penetrable materials (grating or translucent surface).

iv. Piling Repair. Replacement of more than 50 percent of the structural support piling of any overwater segment of a nonresidential moorage facility within a 5-year period requires compliance with new nonresidential moorage facility standards (requires redesign and reconfiguration).

v. Moorage Adjustment. Minor moorage facility modifications are permitted as a repair to accommodate a change in vessel size and type when there is no net increase in the overall number of moorage slips. Allowed adjustments include a minor change in dock configuration and the addition or removal of piling as needed to adjust the moorage slip to accommodate a different vessel type or need for an adjusted dock space. No more than 100 square feet of dock surface or 6 piling may be added in a 3 year period as a moorage adjustment. Materials Used for Repairs. Repairs may be completed with materials similar to those used for original construction unless in conflict with paragraph E.3.c of this section.

vi. Alternative mitigation may be allowed in-lieu of use of light penetrable materials through the Special Shoreline Report Process, LUC 20.25E.160.E when the proposal with the requested alternative

mitigation leads to an equivalent or better protection of shoreline ecological functions than would result from the application of the standard requirements for light penetrating materials.

c. Existing Boat Ramps and Launches - Repair and Maintenance Performance Standards. Repair and maintenance of existing boat ramps and launches shall comply with the following:

i. Repair of existing facilities shall be constructed with materials required for new facilities as described in paragraph E.3.c of this section.

ii. No expansion of improved areas is permitted as repair.

iii. Removal existing vegetation shall be prohibited; and

iv. Dredging is allowed only in accordance with LUC 20.25E.080.D (Dredging and Dredge Material Disposal).

F. Shoreline Stabilization

1. Applicability. Shoreline stabilization measures designed to protect existing primary structures, public facilities, or public use structures from shoreline erosion are allowed in the shoreline at or above ordinary high water mark only in compliance with paragraph F of this section. The requirements of paragraph F of this section may be modified through a Special Shoreline Report, pursuant to LUC 20.25E.160.E.

2. Definitions.

a. Public facilities or public use structures. As used in this section, "public facilities" is a general term that encompasses public infrastructure and facilities. "Public use structures" is a general term that refers to structures designed to facilitate public use of the shoreline.

b. Shoreline Stabilization. Nonstructural and structural measures designed to protect existing primary structures, public facilities, or public use structures from the effects of natural shoreline processes, such as wave action, flooding, or erosion. Shoreline stabilization may include vegetation, bioengineered measures combining vegetation with slope modification, angled riprap, revetments, and conventional vertical bulkheads.

c. Soft Shoreline Stabilization. Soft shoreline stabilization combines a range of bioengineered actions, beach enhancement, anchor trees, large rocks, gravel placement, shoreline plantings, and similar measures that use natural materials engineered to provide shoreline stabilization while preserving or mimicking important shoreline ecological functions. Depending on site conditions, a

blending of hard and soft methods that includes durable components in combination with softer methods and vegetative plantings may be necessary to provide the needed level of stabilization while providing an enhanced shoreline habitat.

d. Hard Shoreline Stabilization. Hard shoreline stabilization employs rigid structures that armor the shoreline from the effects of water-caused erosion. Such structures typically include rip-rap revetments, gabions, concrete retaining walls, and similar measures that function to prevent wave-caused by a variety of methods ranging from rock revetments sloped at 3:1 or less to near-vertical rockeries and vertical rigid structures constructed of artificial materials like concrete.

e. Avoidance Measures. Techniques used to minimize or prevent shoreline erosion that do not involve modification of the shoreline at the interface of land and water. Avoidance measures are applied through a site design approach, and include vegetation enhancement, upland drainage control, and protective walls or embankments placed outside of the shoreline setback or area of special flood hazard.

3. Technically Feasible**.** The provisions of LUC 20.25E.060.C (Technical Feasibility – General Requirements) do not apply when determining if a new shoreline stabilization method is technically feasible, instead the provisions of paragraph F.3 of this section apply.
   a. The determination of whether a particular avoidance or stabilization measure is "technically feasible" shall be made by the Director as part of the decision on the underlying permit after consideration of a report prepared by a qualified professional addressing the following factors:
      i. Site conditions, including slope, beach configuration, nearshore depth, potential for flooding, and proximity of primary structure to ordinary high water mark;
      ii. Consideration of wind direction, velocity and frequency, fetch, probable wave height, and frequency;
      iii. The level of risk to the primary structure, public facility or public use structure presented by the rate of erosion over a three year period and the ability of the proposed measure to mitigate that risk;
      iv. Whether the cost of avoiding disturbance of shoreline processes and functions is disproportionate as compared to the environmental impact

of proposed disturbance, including any continued impacts on functions and values over time; and

v. The ability of both permanent and temporary disturbance to be mitigated.

b. Shoreline stabilization measures found to be technically feasible shall comply with the standards set forth in paragraph F.4 of this section.

4. New or Enlarged Shoreline Stabilization Measures.

a. When Allowed. New or enlarged shoreline stabilization measures shall be permitted only to protect existing primary structures, public facilities, or public use structures. Shoreline stabilization measures shall be allowed only where avoidance measures are not technically feasible.

b. Type of Shoreline Stabilization Measure Used. Where a new or enlarged shoreline stabilization measure is allowed, soft shoreline stabilization measures shall be used, unless the applicant demonstrates, in accordance with paragraph F.3 of this section, that soft shoreline stabilization measures are not technically feasible. Only after the Director determines that soft shoreline stabilization measures are not technically feasible, will hard shoreline stabilization measures be permitted. Provided, that developed sites with less than 10 feet between the primary structure and the ordinary high water mark are assumed to require some form of hard stabilization and applicants are not required to demonstrate technical feasibility. This provision does not apply to legally-established stabilization measures in the Shoreline Residential Canal environment.

c. Options for Soft Stabilization. Options for soft stabilization should be based on the practicality and viability of the measure when considering near shore and yard slope, average wave energy and direction, frequency of large erosion-causing events, and shall employ the following hierarchy of preference:

i. Soft stabilization constructed of natural materials utilizing bioengineering techniques including slope contouring, beach nourishment, protective coconut fiber berms, fascines, live staking, and other vegetative stabilization to hold soil and gravel in place.

ii. Soft stabilization as described in paragraph F.4.c.i of this section integrated with large boulders, large logs and other coarse woody debris, and partial use of rigid structures where required to protect existing rigid structures on abutting properties.

iii. Soft stabilization as described in paragraph F.4.c.ii of this section and incorporating limited use of rigid structures constructed of rock or artificial materials and located as an additional safety measure as far as technically feasible from ordinary high water mark while still ensuring the long-term safety and stability of the primary structure.

d. Options for Hard Stabilization. New or enlarged hard stabilization measures require a demonstration that avoidance or soft stabilization measures are not technically feasible as described in paragraph F.3 of this section. Hard stabilization shall employ the following hierarchy of preference:

i. Hard stabilization constructed of quarry rock, rip-rap or similar materials at a slope gradient not to exceed 3:1 and utilizing bioengineering techniques including slope contouring, beach nourishment, live staking, and other vegetative enhancement.
ii. Hard stabilization as described in paragraph i of this section, but where slope gradient and distance to the primary structure is such that a 3:1 slope cannot reasonably be achieved and where vegetative enhancement is confined to live staking and vegetative enhancement below ordinary high water or at the top of the wall. Such hard stabilization shall not exceed a slope gradient of 2:1.
iii. Hard stabilization utilizing rigid, near-vertical structures at a slope gradient not to exceed 1.5:1 constructed of quarry rock or artificial materials and utilized on developed sites where the distance between the primary structure and ordinary high water mark is 10 feet or less. Near-vertical stabilization shall be the minimum height necessary, and shall not exceed 48 inches in height as measured from the bottom of the footing.

e. Location. When allowed, new shoreline stabilization measures shall be located at or behind the ordinary high water mark. Where a documented area of special flood hazard exists, stabilization measures shall be located at the upland edge of the area of special flood hazard, except that soft stabilization measures conforming to paragraph F.4.c of this section may be located in the area of special flood hazard. Where allowed, hard stabilization measures conforming to paragraph F.4.d.iii of this section may be located in the area of special flood hazard provided that their impact on the flood storage capacity of the floodplain is minimal. Stabilization measures are prohibited waterward of the ordinary high water mark, except that soft shoreline stabilization measures may be located waterward of the ordinary high water mark when they incorporate approved

aquatic habitat improvement elements. In no event may a shoreline stabilization measure modify the lake bottom waterward of the ordinary high water mark, except for the purpose of gravel or beach augmentation, placement of anchored large woody debris, or other specified habitat enhancements.

f. Mitigation and Restoration. Areas of new permanent disturbance and all areas of temporary disturbance associated with new shoreline stabilization measures shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25E.060.D (Mitigation Sequencing).

g. Retention of Setback with New Soft Stabilization. Where an applicant replaces a legally-established existing hard shoreline stabilization measure with a soft shoreline stabilization measure or an avoidance measure, any applicable structure setback shall continue to be measured from the ordinary high water mark that existed with the hard shoreline stabilization measure. Such ordinary high water mark shall be located by a survey prior to removal of the hard shoreline stabilization measure. The applicant shall record a survey or other instrument clearly delineating the ordinary high water mark location as it existed prior to the removal of the hard shoreline stabilization measure with the King County Division of Records and Elections, or its successor agency.

h. Expansion of Shoreline Jurisdiction from Shift in the Ordinary High Water Mark. If implementing a shoreline stabilization measure allowed by the Bellevue SMP and intended to improve ecological functions results in shifting the ordinary high water mark landward of the pre-implementation location, and results in an expansion of the shoreline jurisdiction onto any property other than the subject property, then:

    i. The City shall notify the affected property owner in writing; and
    ii. The City may propose to grant relief from the applicable shoreline regulations resulting in expansion of the shoreline jurisdiction. The proposal to grant relief must be submitted to the Department of Ecology with the required shoreline permit under the procedures established at LUC 20.25E.160 and 20.25E.180. If approved, notice of the relief granted, in a form approved by the City Attorney, shall be recorded on title with the King County Division of Records and Elections, or its successor agency.

5. Repair of Existing Shoreline Stabilization. Existing legally-established shoreline stabilization measures may be repaired. Repair is defined as any action designed to

restore a stabilization measure to its original condition and configuration provided that damage and destruction is not so significant as to cause loss of structural integrity sufficient to jeopardize its erosion protection function.

6. Replacement of Existing Shoreline Stabilization. All legally-established shoreline stabilization measures on Lake Washington and Lake Sammamish are presumed necessary to protect existing shoreline structures and property and may be replaced with a comparable structure when the proposal meets following applicable requirements. Replacement means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose

    a. Comparable Size. Replacements shall not expand the lateral extent, add to the height or increase the width of an existing stabilization measure unless otherwise permitted by the terms of this paragraph. Refer to LUC 20.25E.080.F.4 for requirements applicable to enlarged shoreline stabilization measures.

    b. Comparable Location.

        (i) Replacement vertical walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

        ii. Where an angled riprap rock revetment is selected as the replacement for a vertical wall or bulkhead, the structure may be constructed as far waterward as necessary to ensure the ordinary high water mark is no further landward than previously existed on the wall or bulkhead being replaced.

    c. Comparable Design.

        i. Existing vertical shoreline stabilization measures may not be replaced with a similar structure unless the Director concludes that there is no practical alternative based on a report by a qualified professional. Except that existing legally-established hard stabilization measures located in the Shoreline Residential Canal environment may be repaired or replaced in their vertical concrete configuration, and the applicant shall

not be required to demonstrate that there is no practical alternative.

ii. An angled riprap rock revetment with 1:1 slope or less is an appropriate replacement structure for existing vertical or near vertical walls or bulkheads when designed by a qualified professional. Appropriate sand, gravel, or other beach material may be placed as necessary to backfill that portion of the revetment constructed below ordinary high water.

iii. Stairs or other reasonable access to the water are allowed as part of any replacement structure described above provided that they shall not extend further waterward than the replacement structure.

iv. Nothing in this requirement prevents vertical concrete shoreline stabilization measures from being replaced with a soft or hard shoreline stabilization measures as described at 20.25E.080.4.c and d.

d. Limitation on Comparability. Replacement structures meeting the requirements of this paragraph are permitted so long as the materials, size, location and design of the stabilization measure assures no net loss of shoreline ecological functions.

7. Removal of Existing Shoreline Stabilization. Shoreline stabilization measures may be voluntarily removed in support of shoreline mitigation or restoration when the proposal meets the following applicable requirements:

a. The area impacted by removal is restored or replanted pursuant to an approved mitigation plan (refer to LUC 20.25E.060.D), designed, located, sized and constructed to ensure no net loss of ecological function;

b. The impact on adjacent properties is minimized and existing stabilization structures are protected;

c. The applicant records an agreement recognizing that the installation of future hard stabilization is prohibited; and,

d. Short-term construction impacts are minimized through the use of appropriate best management practices to minimize impacts to water quality, appropriate timing restrictions, and stabilization of exposed soils following construction.

IV. PROCEDURES

20.25E.100 Review and Appeal Procedures.

A. Purpose and Scope.

The purpose of this section is to establish standard procedures for all shoreline decisions made by the City of Bellevue. The procedures are designed to promote timely and informed public participation, eliminate redundancy in the application, permit review, and appeal processes, minimize delay and expense, and result in shoreline approvals that further City and state goals for the shoreline, as set forth in the Shoreline Management Act and the Bellevue Comprehensive Plan. As required by RCW 36.70B.060, these procedures provide for an integrated and consolidated permit process. The procedures integrate the environmental review process with the procedures for review of shoreline decisions. The procedures also provide for merger of the appeal process for environmental threshold determinations and shoreline decisions. Chapter 20.35 LUC does not apply to the processing of shoreline permits and approvals, unless specifically referenced in LUC 20.25E.140, and 20.25E150 through 20.25E.200, and 20.25E.270.

B. Framework for Decisions.

1. Shoreline Project Decisions on Permits, Approvals, and Exemptions. Shoreline decisions are divided into three processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of potential impact associated with the decision, the amount and type of public input sought, and the type of appeal available. Shoreline Project Decisions do not include legislative non-project actions taken by the City Council and described in paragraph B.2 of this section.

a. Shoreline Process I decisions are quasi-judicial decisions made by the Hearing Examiner with a city appeal opportunity to the City Council. A petition for review (appeal opportunity) is also provided to the State Shoreline Hearings Board. Shoreline Conditional Use permits are a Shoreline Process I decision.

b. Shoreline Process II decisions are administrative decisions made by the Director for which no city appeal opportunity is available. A petition for review (appeal opportunity) is provided to the State Shoreline Hearings Board. Shoreline Substantial Development Permits, Shoreline Variance approvals, Permit Revisions, and threshold determinations associated with a Shoreline Process II decision and made by the Environmental Coordinator under the State Environmental Policy Act (SEPA), are all Shoreline Process II decisions.

c. Shoreline Process III decisions are ministerial shoreline decisions made by the Director, for which no administrative appeal opportunity is available to the Hearing Examiner or the Shoreline Hearings Board. Letters of Exemption are Shoreline Process III decisions.

2. Legislative Non-Project Actions. Legislative actions are taken by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. Amendments to the SMP are Land Use Process IV decisions governed by the procedures contained in LUC 20.35.400 through 20.35.450, RCW 98.58, and WAC 173-26. Process IV land use decisions that amend the SMP require approval by the Department of Ecology pursuant to the procedures contained in RCW 90.58.090.

C. General Procedures Applicable to All Shoreline Project Decisions.

1. Pre-Application Conferences. A pre-application conference is required before submitting any application for a Shoreline Conditional Use Permit (Shoreline Process I decision), unless waived by the Director. Shoreline Process II and Shoreline Process III decisions are exempt from the pre-application conference requirement.

2. Applications – Who May Apply. The property owner or authorized agent of the owner may apply for shoreline project permits, approvals, and exemptions.

3. Submittal Requirements. The Director shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. The Director may waive specific submittal requirements determined to be unnecessary for review of a specific project application. The Director may require additional material such as maps, or studies when the Director determines such material is needed to adequately assess the proposed project, but these additional materials will not be necessary for the determination of completeness.

4. Notice of Complete Application.

a. Within 28 days after receiving a shoreline permit or approval application, the Director shall mail, fax, or otherwise provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.

b. If the Director does not provide a written determination within the 28 days, the application shall be deemed complete as of the date of submittal.

c. If additional information is needed to make the application complete, within 14 days after an applicant has submitted the information identified

by the Director as being needed, the Director shall notify the applicant whether the application is complete or what additional information is necessary.

d. An application is complete for purposes of this section when it meets the submittal requirements established by the Director and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Director from requesting additional information or studies either at the time of the notice of completeness or subsequently, if new information is required to complete review of the application or substantial changes to the permit application are proposed.

5. Shoreline Project Review Timelines. The Director shall establish and mechanism to ensure reasonable and predictable timelines for review of shoreline applications and shall provide target dates for decisions on such applications.

6. Integration and Consolidation of Shoreline Permit Review.

a. Shoreline Process I and II Decisions. When a single shoreline project includes a combination of Shoreline Process I and Shoreline Process II permits, consolidated review of the project shall include the Process I and II components. A consolidated report setting forth the Shoreline Process I recommendation of the Director, and the Shoreline Process II decision(s), including SEPA threshold determination associated with a Shoreline Process I decision, shall be issued.

b. Shoreline Process I Decisions with Process I, II or III Land Use Decisions. When a single shoreline project includes a Shoreline Process I decision governed pursuant to LUC 20.25E.110 combined with Land Use Process I, II, or III permits governed pursuant to Chapter 20.35 LUC, consolidated review of the project shall include the Shoreline Process I and the applicable land use process components. A consolidated report setting forth any required recommendations of the Director and the decisions, including SEPA threshold determination associated with a Shoreline Process I decision, shall be issued.

c. SEPA Threshold Determination with Shoreline Process II or III Decisions. Any SEPA threshold determination associated with a Shoreline Process II or III permit that is not consolidated with a Shoreline Process I decision as

described in LUC 20.25E.100.C.6.a and b above shall be merged with the Shoreline Process II or III action, and processed according to the notice, decision, appeal, and other procedures set forth in LUC 20.25E.100, LUC 20.25E.120 (Shoreline Process II), and LUC 25.25E.130 (Shoreline Process III).

7. Recommendations and Decisions of the City – Written Record Required. Any recommendation or decision of the Director, Hearing Examiner or City Council on a shoreline project application shall be provided in writing. The record may be in the form of a staff report, letter, the permit itself, ordinance, or other written document, and shall indicate whether the application has been approved, approved with conditions, or denied. Any recommendation or decision of the City shall be based on the decision criteria for the applicable shoreline project permit, shall include any conditions necessary to ensure consistency with the SMA, the SMP, and City development regulations, and may include any mitigation measures proposed under the provisions of SEPA.

8. Consolidation of Certain Administrative Appeals of Shoreline Permits and Non-Shoreline Matters. Certain appealable administrative decisions are not made by the Director, including but not limited to decisions pursuant to the City's Traffic Standards Code, Chapter 14.10 BCC; Transportation Improvement Program, Chapter 22.16 BCC; the School Impact Fees for Issaquah School District No. 411, Chapter 22.18 BCC; the Sewer Code, Chapter 24.04 BCC; the Storm and Surface Water Utility Code, Chapter 24.06 BCC; the Sign Code, Chapter 22B.10 BCC; and the Environmental Procedures Code, Chapter 22.02 BCC. The City Hearing Examiner hears and decides appeals on these types of non-shoreline decisions and determinations. Information on non-shoreline appeals is available from the department administering the relevant code and from the City Hearing Examiner.

a. Shoreline Process I Permits with Non-Shoreline Matters. When a non-shoreline matter is associated with a consolidated shoreline permit review as described in LUC 20.25E.100.C.6.a and b above, the appeal on the non-shoreline matter will be heard together with any Hearing Examiner public hearing on the Shoreline Process I recommendation of the Director.

b. Shoreline Process II and III Permits with Non-Shoreline Matters. No City administrative appeal is available on a merged SEPA and shoreline permit review as described in LUC 20.25E.100.C.6.c above. Non-shoreline matter appeals will not be consolidated with Shoreline Process II and III decisions.

9. Tolling of Non-Shoreline Matters during Pendency of Shoreline Administrative Appeals. An appeal of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or a Shoreline Variance is to the State Shoreline Hearings Board as set forth in RCW 98.58.180. The time for filing an appeal to Superior Court of a final land use decision described in LUC 20.35.070 that has been consolidated with a shoreline decision as described in LUC 20.25E.100.C.6.a and b, will be tolled until all administrative appeals (including petitions for review to the Shoreline Hearings Board) have been resolved.

D. Notice Procedures Applicable to Shoreline Project Decisions.

1. Notice of Application. Notice of application for shoreline decisions shall be provided within 14 days of issuance of a notice of completeness as required by Table 20.25E.100.D.1:

Table 20.25E.100.D.1

Shoreline Project Applications	**Publication (b)**	**Mail (c)**	**Sign (d)**
Shoreline Conditional Use Permit	x **(e)**	x	x
Shoreline Substantial Development Permit	x	x	
Shoreline Variance Approval	x	x	
Shoreline Letter of Exemption **(a)**			

Notes: Table 20.25E.100.D.1

a. Notice of application is not required for shoreline letters of exemption unless SEPA review is required. If SEPA review is required on a shoreline letter of exemption, notice of application shall be provided pursuant to LUC 20.35.210.

b. Publication.

i. Publication information shall include the project description, location, types of City permits or approvals applied for, date of application, minimum public comment period, and location where the complete application file may be reviewed.

ii. For purposes of this paragraph, reference to "publication" shall include either publication in the City's official newspaper of record, electronic notification through use of the City's official website, or by inclusion in the City's weekly permit bulletin.

c. Mailing.

i. Mailed notice shall be provided to owners of real property within 500 feet of the project site including the following information:

(1) The date of application;

(2) Minimum public comment period;

(3) The project description and location;

(4) The types of City permit(s) or approval(s) applied for;

(5) The Director may include other information to the extent known at the time of notice of application, such as: the identification of other required City permits, related permits from other agencies or jurisdictions not included in the City permit process, the dates for any public meetings or public hearings, identification of any studies requested for application review, any existing environmental documents that apply to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation;

(6) Mailings shall also include mailing notice of the application to each person who has requested such notice for the calendar year and paid any fee as established by the Director. This mailing shall also include all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested notice of land use activity. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

ii. For purposes of this paragraph, reference to "mailing" shall include either U.S. mail or electronic mail. The City shall, however, provide notification by electronic mail only when requested by the recipient.

d. Sign. If signs are required, the applicant shall post two signs or placards on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish

standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.

e. Notice of Application shall be provided at least 15 days before the Hearing Examiner public hearing required for Process I decisions.

2. Minimum Comment Period.

a. Comments should be submitted to the Director as early in the review of an application as possible and should be as specific as possible.

b. The Director may accept and respond to public comments at any time prior to issuance of a recommendation or decision.

c. For projects requiring review under the State Environmental Policy Act (SEPA), a single comment letter may be submitted to the Director or the Environmental Coordinator addressing environmental impacts as well as other issues subject to review under the shoreline project decision criteria.

d. Notice of application for shoreline project decisions shall provide a minimum comment period as required by Table 20.25E.100.D.2.d:

Table 20.25E.100.D.2.d

Shoreline Project Applications	**Minimum Comment Period**
Shoreline Conditional Use Permit	30 days
Shoreline Substantial Development Permit	30 days (i)
Shoreline Variance Approval	30 days
Shoreline Letter of Exemption	(ii)

Notes: Table 20.25E.100.D.2.d

i. The minimum comment period shall be 20 days for shoreline substantial development permit applications for:

(1) A limited utility extension; or,

(2) Construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structure from shoreline

erosion. The Director's decision on a shoreline application will not be issued before expiration of the minimum comment period.

ii. A minimum comment period is not required for shoreline letters of exemption unless SEPA review is required. If SEPA review is required on a shoreline letter of exemption, a minimum comment period shall be provided pursuant to LUC 20.35.225.

3. Construction Notices. The Director may require construction posting and neighborhood notification for any development on real property. Removal of or failure to post a construction notice required by the Director shall constitute a violation of this section and otherwise is enforceable under Chapter 1.18 BCC.

20.25E.110 Shoreline Process I – Hearing Examiner Quasi-Judicial Decisions.

A. Process Described.

1. Applicable Code Section. Section LUC 20.25E.110 contains procedures the City will use in processing a Shoreline Process I decision. The specific Shoreline Process I procedures are in addition to the general procedures applicable to all shoreline project decisions contained in LUC 20.25E.100.

2. Type of Decision. Decisions on a Shoreline Process I application are quasi-judicial decisions made by the City Hearing Examiner based on a recommendation from the Director. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time a public meeting will be held. The Director then makes a recommendation based upon the decision criteria set forth in the Code for the applicable shoreline permit.

3. Incorporation of SEPA Threshold Determination. If required by the State Environmental Policy Act (SEPA) a threshold determination associated with a Shoreline Process I decision shall be issued by the Environmental Coordinator as a Land Use Process II decision pursuant to LUC 20.35.230 with an opportunity for appeal to the Hearing Examiner pursuant to LUC 20.35.250. The threshold determination should be issued in conjunction with issuance of the Director's recommendation on the application. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed before issuance of the Director's recommendation. If the requirement to prepare an EIS or a supplemental EIS is

appealed by the applicant, that appeal will be resolved prior to issuance of the Director's recommendation.

4. Hearing Examiner Public Hearing. Following issuance of the Director's recommendation, a public hearing will be held before the City Hearing Examiner. If a SEPA Determination of Nonsignificance (DNS) was issued (no EIS required) pursuant to LUC 20.35.230 and an appeal of the DNS filed pursuant to LUC 20.35.250, the appeal hearing on the DNS will be combined with the public hearing on the Director's recommendation. Following the public hearing, the Hearing Examiner will issue a written report which will set forth a decision to approve, approve with modifications, or deny the Shoreline Process I application. The Examiner's report will also include a final City decision on any DNS or other non-shoreline appeal consolidated with the Shoreline Process I permit as described in LUC 20.25E.100.C.8.

5. City Appeal Opportunity. The decision of the Hearing Examiner on a Shoreline Process I permit is appealable to the City Council.

6. Shoreline Process I Decision – When the City Decision is Final. When a decision is made to approve, conditionally approve, or deny an application, the applicant shall be notified. Shoreline Process I decisions are final upon expiration of any applicable City administrative appeal period, or if appealed, on the date of the City Council's final decision on the application.

B. Public meetings.

A public meeting is required for all Shoreline Process I applications. The applicant shall participate in the meeting to inform citizens about the proposal. Public meetings shall be held as early in the review process as possible for Shoreline Process I applications. Notice of the public meeting shall be provided in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. The public meeting notice will be combined with the notice of application whenever possible.

C. Director's Recommendation on a Process I Application.

A written report of the Director making a recommendation to the Hearing Examiner for approval, approval with conditions or with modifications, or for denial shall be prepared.

D. Notice of Recommendation, SEPA Determination, and Hearing Examiner Hearing.

1. Notice Distribution. Public Notice of the availability of the Director's recommendation shall be published and mailed in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. Public Notice of the

availability of the Director's recommendation shall also be mailed to the applicant and each person who submitted comments during the comment period or at any time prior to the publication of the notice of recommendation.

2. Notice Content. The following content shall be provided in addition to the content required pursuant to LUC 20.25E.100.D.1.

a. SEPA Threshold Determination. If a Determination of Significance (DS) was issued by the Environmental Coordinator, the notice shall state whether an EIS or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) was issued, the notice shall state the deadline for appeal of the DNS to the Hearing Examiner pursuant to LUC 20.35.250. The DNS should be issued and published in conjunction with the Director's recommendation except as provided in the Environmental Procedures Code, BCC 22.02.160.

b. Hearing Examiner Public Hearing. The notice shall also include the date of the Hearing Examiner public hearing for the application, which shall be scheduled no sooner than 15 days following the date of publication of the notice.

E. Hearing Examiner Public Hearing.

1. Participation in Hearing. Any person may participate in the Hearing Examiner public hearing on the Director's recommendation by submitting written comments to the Director before the hearing or by submitting written comments or making oral comments at the hearing.

2. Transmittal of File. The Director shall transmit to the Hearing Examiner a copy of the Department file on the application including all written comments received prior to the hearing, and information reviewed by or relied upon by the Director or the Environmental Coordinator. The file shall also include information to verify that the requirements for notice to the public (notice of application, notice of SEPA determination, and notice of Director's recommendation) have been met.

3. Hearing Record. The Hearing Examiner shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

F. Hearing Examiner Decision on Shoreline Process I Applications.

1. Decision. The Hearing Examiner shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with

the decision criteria for the applicable shoreline permit. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall deny the application.

2. Limitation on Modification. If the Hearing Examiner requires a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LUC 20.25E.100.D, the Hearing Examiner shall conduct a new hearing on the proposal as modified.

3. Conditions. The Hearing Examiner may include conditions to ensure a proposal conforms to the relevant decision criteria.

4. Written Decision of the Hearing Examiner. The Hearing Examiner shall within 10 working days following the close of the record distribute a written report supporting the decision. The report shall contain the following:

a. The decision of the Hearing Examiner on the Shoreline Process I permit and any non-shoreline appeals consolidated with the permit; and

b. Any conditions included as part of the decision; and

c. Findings of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts; and

d. A statement explaining the process to appeal the decision of the Hearing Examiner on the Shoreline Process I permit to the City Council.

5. Distribution. The Office of the Hearing Examiner shall mail the written decision, bearing the date it is mailed, to each person who participated in the public hearing.

6. Effect of Hearing Examiner Decision. The decision of the Hearing Examiner on the application is the final decision of the City if no written appeal to the City Council is filed pursuant to paragraph G.1 of this section, and shall be filed with the state pursuant to LUC 20.25E.150.D.

G. Appeal of Hearing Examiner Shoreline Process I Decision to City Council.

1. The Hearing Examiner's decision on a Shoreline Process I application may be appealed to the City Council as follows:

a. Who May Appeal. The decision of the Hearing Examiner may be appealed by any person who participated in the public hearing as provided for in LUC 20.25E.110.E.1, or by the applicant or the City.

b. Form of Appeal. A person appealing the decision of the Hearing Examiner must file with the City Clerk a written statement of the findings of fact or conclusions which are being appealed and must pay a fee, if any, as established by ordinance or resolution. The written statement must be filed together with an appeal notification form available from the Office of the City Clerk.

c. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 14 days following the date the decision of the Hearing Examiner was mailed.

d. Hearing Required. The City Council shall conduct a closed record appeal hearing in order to decide upon an appeal of the decision of the Hearing Examiner. The decision on any such appeal shall be made within such time as is required by applicable state law.

e. Public Notice of Appeal Hearing.

i. Content of Notice. The City Clerk shall prepare a notice of an appeal hearing containing the following:

(1) The name of the appellant, and if applicable the project name;

(2) The street address of the subject property, and a description in non-legal terms sufficient to identify its location;

(3) A brief description of the decision of the Hearing Examiner which is being appealed; and

(4) The date, time and place of the appeal hearing before the City Council.

ii. Time and Provision of Notice. The City Clerk shall mail notice of the appeal hearing on an appeal of the decision of the Hearing Examiner no less than 14 days prior to the appeal hearing to each person entitled to participate in the appeal pursuant to LUC 20.25E.110.G.1.f.

f. Closed Record Hearing on Appeal to City Council.

i. Who May Participate. The applicant, the appellant, the Director, or representative of these parties may participate in the appeal hearing.

ii. How to Participate. A person entitled to participate may participate in the appeal hearing by:

(1) Submitting written argument on the appeal to the City Clerk no later than the date specified in the City Council's Rules of Procedure; or,

(2) Making oral argument on the appeal to the City Council at the appeal hearing. Argument on the appeal is limited to information contained in the record developed before the Hearing Examiner and must specify the findings or conclusions which are the subject of the appeal, as well as the relief requested from the Council.

iii. Hearing Record. The City Council shall make an electronic sound recording of each appeal hearing.

g. City Council Decision on Shoreline Process I Appeals.

i. Decision. The City Council may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and the City Council finds that the decision of the Hearing Examiner is not supported by material and substantial evidence. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner.

ii. Conditions. The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modifications to ensure conformance with the criteria under which the application was made.

iii. Ordinance Resolving Appeal. The City Council shall adopt an ordinance supporting the decision. The ordinance shall contain the following.

(1) The decision of the City Council;

(2) Any conditions included as part of the decision;

(3) Findings of fact and conclusions of law which support its decision on the appeal; and

(4) A statement explaining the process to file a Petition for Review of the City Council decision to the Shoreline Hearings Board.

iv. Required Vote. A vote to grant the appeal or grant the appeal with modifications must be by a majority vote of the membership of the City Council. Any other vote constitutes denial of the appeal.

2. Effect of City Council Decision. The decision of the City Council on a Shoreline Process I application is the final decision of the City, and shall be filed with the state pursuant to LUC 20.25E.150.D.

20.25E.120 SHORELINE PROCESS II.

A. Process Described.

1. Applicable Code Section. Section LUC 20.25E.120 contains procedures the City will use in processing a Shoreline Process II decision. The specific Shoreline Process II procedures are in addition to the general procedures applicable to all shoreline project decisions contained in LUC 20.25E.100.

2. Type of Decision. Decisions on a Shoreline Process II application are administrative decisions made by the Director. This process begins with a complete application, followed by notice to the public of the application and a public comment period. A public meeting may be held for projects of significant impact or for projects involving major changes to the expected pattern of development in an area. The Director then makes a decision based upon the decision criteria set forth in the code for the applicable shoreline permit. Public notice of the decision is provided, along with an opportunity to petition for review of the decision to the Shoreline Hearings Board.

3. Merger of SEPA Threshold Determination. If required by the State Environmental Policy Act (SEPA), a threshold determination shall be issued. The threshold determination shall be issued in conjunction with issuance of the Director's decision on the application. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed before the accompanying shoreline decision is issued. If the applicant appeals the requirement to prepare an EIS or a supplemental EIS, that appeal will be resolved before the Director issues the shoreline decision. No City administrative appeal is available on a merged SEPA and shoreline permit review as described in LUC 20.25E.100.C.6.c.

4. Shoreline Process II Decision – When the City Decision is Final. The City decision is final when notice to approve, conditionally approve, or deny an application is issued by the Director.

B. Public Meetings.

The Director may require the applicant to participate in a public meeting to inform citizens about a proposal. When public meetings are required, the meeting shall be held

as early in the review process as possible for shoreline applications. For projects located within the boundaries of a Community Council, the public meeting may be held as part of the Community Council's regular meeting or otherwise coordinated with the Council's meeting schedule. Notice of the public meeting shall be provided in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. The public meeting notice will be combined with the notice of application whenever possible.

C. Special Timing Requirement for Issuance of Certain SSDPs.

1. The Director must issue a written decision within 21 days of the last day of the comment period described in LUC 20.25E.100.D.2.d on applications for shoreline substantial development permits for:

a. A limited utility extension; or,

b. The construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structure from shoreline erosion.

2. For the purposes of this section, a limited utility extension means the extension for a utility service that:

a. Is categorically exempt from under chapter 43.21C RCW for one or more of the following: natural gas, electricity, telephone, water, or sewer;

b. Will serve an existing use in compliance with the City's Shoreline Master Program and the Shoreline Management Act; and

c. Will not extend more than 2,500 linear feet within the shorelines of the state.

D. Director's Shoreline Process II Decision.

1. Decision. The Director shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the decision criteria for the applicable shoreline permit. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Director shall deny the application.

2. Limitation on Modification. If the Director requires a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LUC 20.25E.100.D, the Director shall provide a new notice of application and obtain public comment prior to making a decision.

3. Conditions. The Director may include conditions to ensure a proposal conforms to the relevant decision criteria.

4. Written Decision of the Director.

a. Content. The Director shall distribute a written report supporting the decision. The report shall contain the following:

i. The decision of the Director;

ii. Any conditions included as part of the decision;

iii. Findings of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts; and

iv. A statement explaining the process to petition for review of the Directors decision to the Shoreline Hearings Board together with any merged SEPA threshold determination on the Shoreline Process II decision.

b. Effect of Decision. The decision of the Director on a Shoreline Process II application is the final decision of the City, and shall be filed with the state pursuant to LUC 20.25E.150.D.

E. Notice of Shoreline Process II Decision.

1. Notice Distribution. Public Notice of the availability of the Director's decision shall be published and mailed in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. Public Notice of the availability of the Director's decision shall also be mailed to each person who submitted comments during the comment period or at any time prior to the publication of the notice of decision.

2. Notice Content. The following content shall be provided in addition to the content required pursuant to LUC 20.25E.100.D.1.

a. SEPA Threshold Determination. If a Determination of Significance (DS) was issued by the Environmental Coordinator, the notice of the Director's decision shall state whether an EIS or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) was issued, the DNS should be issued and

published in conjunction with the Director's decision except as provided in the Environmental Procedures Code, BCC 22.02.160.

b. Appeal Opportunity. The notice of decision shall also include information regarding how to appeal the shoreline decision together with any merged SEPA Threshold Determination, to the Shoreline Hearings Board.

F. Appeal of Director's Shoreline Process II Decision. The decision of the Director on a Shoreline Process II application is the final decision of the City and may be appealed within 21 days to the Shoreline Hearings Board as set forth in RCW 90.58.180.

20.25E.130 Shoreline Process III – Ministerial Decisions.

A. Process Described.

1. Applicable Code Section. Section LUC 20.25E.130 contains procedures the City will use in processing a Shoreline Process III decision. These specific Shoreline Process III procedures are in addition to the general procedures applicable to all shoreline project decisions contained in LUC 20.25E.100.

2. Type of Decision. Decisions on a Shoreline Process III application are ministerial decisions made by the Director, for which no administrative appeal is available. This process begins with a complete application, and culminates with Director issuance of a Letter of Exemption.

3. Incorporation of SEPA Threshold Decisions. If required by the State Environmental Policy Act (SEPA), a threshold determination shall be issued. The threshold determination should be issued in conjunction with issuance of the Letter of Exemption.

4. Shoreline Process III Decisions – When the City Decision is Final. When a decision is made to issue a Letter of Exemption, with or without conditions, the applicant shall be notified. This decision shall constitute the final decision of the city.

B. Appeal of Director's Shoreline Process III Decision. The decision of the Director on a Shoreline Process III application is the final decision of the City and no administrative appeal is available. The decision on a Shoreline Process III application may be appealed together with any merged SEPA Threshold Determination to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW.

20.25E.140 LEGISLATIVE NON-PROJECT ACTIONS.

A. Process.

LUC 20.35.400 through 20.35.450 contain the procedures the City shall use to make legislative land use decisions (Process IV actions). The process shall include a public hearing, held by either the Planning Commission or City Council, and action by the City Council. Review under the State Environmental Policy Act (SEPA) and the Bellevue Environmental Procedures Code may be required. An action by a Community Council may also be required, in which case the Community Council may hold a courtesy public hearing at any time before the City Council action.

B. Appeal of the City Council Decision.

A final City action on a legislative non-project land use proposal to amendment the SMP may be appealed together with the SEPA Threshold Determination to the Growth Management Hearings Boards as set forth in RCW 36.70A.280.

V. PERMITS AND DECISIONS

20.25E.150 Shoreline Project Permits, Approvals and Exemptions

A. Scope. Sections LUC 20.25E.150 through 20.25E.200 establish the criteria the City will use in making a decision on a shoreline permit application.

B. Applicability. This section 20.25E.150 applies to all applications for shoreline project permits and exemptions.

C. Review Criteria for all Shoreline Applications.

1. All development within the shoreline shall be consistent with the Shoreline Management Act, Chapter 90.58 RCW, and the SMP.

2. No permit shall be issued for any new or expanded building or structure of more than 35 feet above average finished grade level.

D. Filing Permits with Department of Ecology/Attorney General – Content Required.

1. Process I and II Permits. Pursuant to WAC 173-27-130, the Director shall send the following information to the Department of Ecology and the Attorney General's Office upon the City's final decision on a Shoreline Process I or Process II permit:

a. A copy of the complete application, and when the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicates the final approval plans;

b. Findings and conclusions that establish the basis for the decision, including, identification of shoreline environment designation, applicable master program policies and regulations, and consistency of the project with the decision criteria for the applicable shoreline permit type;

c. A copy of the environmental checklist and SEPA determination, if applicable;

d. The City's final decision on the project; and

e. The permit data sheet required by WAC 173-27-190.

2. Process III Permits. Pursuant to WAC 173-27-050, the Director shall send the Letter of Exemption to the Department of Ecology and the Attorney General's Office upon the City's final decision on a Shoreline Process III Exemption from

the Shoreline Substantial Development Permit when the proposed development is subject to one or more of the following federal permit requirements:

a. A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899; or

b. A section 404 permit under the Federal Water Pollution Control Act of 1972.

E. Revisions to Issued Shoreline Process I and II Permits and Approvals.

1. Processing. There are two ways to amend a previously approved Shoreline Substantial Development Permit, Conditional Use Permit or Variance approval.

a. Process as a new permit or approval consistent with the terms of LUC 20.25E.100 through 20.25E.120 and LUC 20.25E.170 through 20.25E.190; or

b. Process as a Shoreline Revision consistent with the terms of paragraph E.2 of this section. Except as provided in paragraph E.2 of this section, an amendment to a previously approved project or decision is treated as a new application.

2. Shoreline Revisions.

a. Scope of Authority. An amendment to a previously approved project or decision may be reviewed as a Shoreline Revision if determined to be within the scope and intent of the original permit by meeting all of the following criteria:

i. No additional over-water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less;

ii. Ground area coverage and height of each structure may be increased a maximum of 10 percent from the provisions of the original permit;

iii. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the SMP except as authorized under a variance granted in the original permit or a part thereof;

iv. Additional or revised landscaping is consistent with conditions (if any) attached to the original permit and with the SMP;

v. The use authorized pursuant to the original permit is not changed; and,

vi. No substantial adverse environmental impact will be caused by the project revision.

b. Limitation on Authority.

i. If the sum of the revision and any previously approved revisions violate the provisions of this section, a new permit shall be required.

ii. This revision process shall not be used to extend the expiration deadlines of LUC 20.25E.250.C or to authorize substantial development beyond the time limits of the original permit.

c. Decision Criteria.

i. The Director may approve or approve with modifications a Shoreline Revision if:

(A) The applicant has carried the burden of proof that the Shoreline Revision is within the scope and intent of the original permit pursuant to paragraph E.2 of this section; and

(B) The applicant has demonstrated that the proposal complies with the SMA, the SMP, and the BCC.

ii. In all other cases, the Director shall deny the application for Shoreline Revision.

d. Conditioning a Shoreline Revision. The Director may attach conditions to the Shoreline Revision as necessary to assure consistency of the project with the SMA, the SMP, and the BCC.

3. Transmittal to Department of Ecology/Attorney General.

a. The Director shall send a copy of the final City action on a Shoreline Revision to the Department of Ecology and the Attorney General's Office in conformance with WAC 173-27-100(5).

b. If the revision to the original permit involves a conditional use or variance which was conditioned by the Department of Ecology, the

revision shall be submitted to the Department of Ecology for the department's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-27-100(6). Persons having requested notice of the Director's decision shall be notified.

4. Effective Date. The Shoreline Revision is effective immediately upon the Director's decision or, when appropriate under paragraph E.4.ii of this section, upon the Department of Ecology's action.

5. Commencement of Activity. Construction undertaken pursuant to that portion of a revised shoreline permit is at the applicant's sole risk until expiration of the appeal deadlines. If an appeal is successful in proving that an amendment is not within the scope and intent of the original permit, the decision on appeal shall have no bearing on the entitlements contained in the original permit.

20.25E.160 Shoreline Substantial Development Permits.

A. Substantial Development Permit Required.

A shoreline substantial development permit is required for all development within the shoreline jurisdiction, except those activities set forth in LUC 20.25E.170. Criteria for obtaining a shoreline substantial development permit shall be as set forth in Chapter 173-27 WAC and LUC 20.25E.150 and 20.25E.160.

B. Applicability.

The provisions of this section apply to each application for a shoreline substantial development permit. Substantial development shall not be undertaken on shorelines without first obtaining a shoreline substantial development permit as provided in this section.

C. Purpose.

A shoreline substantial development permit is the mechanism by which the City administers its Shoreline Master Program in a manner consistent with the policies of the Shoreline Management Act.

D. Decision Criteria. The Director may approve or approve with modifications a Shoreline Substantial Development Permit if:

1. The proposal is consistent with the policies and procedures of the Shoreline Management Act;

2. The proposal is consistent with the provisions of Chapter 173-27 WAC;

3. The proposal is consistent with the SMP;

4. The proposal will be served by adequate public facilities including streets, fire protection, and utilities;

5. The proposal is consistent with the Bellevue Comprehensive Plan; and

6. The proposal complies with applicable requirements of the Bellevue City Code.

E. Special Shoreline Report Process.

1. Purpose. A special shoreline report is a mechanism by which setbacks, moorage, and shoreline stabilization requirements of this part and the impervious surface standards set forth in LUC 20.20.010 may be modified for a specific proposal. The report is intended to provide flexibility for sites or proposals providing unique design, or protection of shoreline area functions and values, not anticipated by this part, and to ensure that strict implementation of certain requirements will not thwart the policy enumerated in RCW 90.58.020. The extent and complexity of information required in a special shoreline report will vary, depending on the scope, complexity, and magnitude of impact on the shoreline area and shoreline setbacks associated with the proposed development. The special shoreline report must demonstrate that the proposal with requested modifications leads to equivalent or better protection of shoreline ecological functions and values than would result from the application above enumerated requirements. Where the proposal involves restoration of existing conditions in exchange for a reduction in the regulated shoreline setback on a site, the special shoreline report must demonstrate a net increase in certain critical area functions.

2. Review Process. Requests for modifications to the requirements of this part through a special shoreline report shall be processed through a shoreline substantial development permit. Where additional permits are required for the underlying use or activity, the permits may be consolidated or merged pursuant to the provisions of LUC 20.25E.100.C.6.

3. Limitation on modifications. The special shoreline report may not be used to modify sections of the Land Use Code outside of Part 20.25E LUC unless otherwise expressly permitted. The special shoreline report may not be used to modify the definitions contained in Part 20.25E LUC or Chapter 20.50 LUC, or

any other provision of this part that expressly prohibits modification. The special shoreline report may not be used to modify the shoreline below the ordinary high water mark as defined in RCW 90.58.030(2)(c), the floodway as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h). Additional limitations on modifications for specific shoreline area may be found in the sections of this part addressing specific use performance standards.

4. Use of science and technical information required. The special shoreline report shall use scientifically valid methods and studies in the analysis of shoreline area data and field reconnaissance including the most current, accurate and complete scientific and technical information as outlined in RCW 90.58.100. The special shoreline report shall evaluate the proposal and all probable impacts to shoreline areas in accordance with the provisions of the Shoreline SMP.

5. Submittal requirements.

   a. Specific Proposal Required. A special shoreline report must be submitted as part of an application for a specific development proposal. In addition to the requirements of this section, additional information may be required for the permit applicable to the development proposal.

   b. Minimum Report Requirements. The special shoreline report shall be prepared by a qualified professional and shall at minimum include the content identified in this paragraph. The Director may waive any of the report requirements where, in the Director's discretion, the information is not necessary to assess the impacts of the proposal and the level of protection of shoreline ecological functions and values accomplished. At a minimum, the report shall contain the following:

      i. The lake classification and environment designation as outlined in the City of Bellevue GIS mapping.

      ii. Identification and classification of all shoreline setbacks and any critical areas and critical area buffers on the site and abutting properties.

      iii. Identification of each regulation or standard of this code proposed to be modified;

      iv. A vegetative cover and habitat analysis, including existing aquatic vegetation, setbacks and upland area. (Use of the Bellevue Urban Wildlife Habitat Functional Assessment Model is required if credit is

sought for wildlife habitat functions outside the shoreline setback and aquatic area.);

v. An assessment of the probable cumulative impacts to shoreline area resulting from development of the site and the proposed development;

vi. An analysis of the level of protection of shoreline ecological functions and values provided by the regulations or standards of this code, compared with the level of protection provided by the proposal. The analysis shall include:

(1) A discussion of the functions and values currently provided by the aquatic zone, shoreline setback and shoreline upland area on the site and their relative importance to the ecosystem in which they exist;

(2) A discussion of the functions and values likely to be provided by the shoreline setback on the site through application of the regulations and standards of this Code over the anticipated life of the proposed development;

(3) A discussion of the functions and values likely to be provided by the shoreline setback and upland area on the site through the modifications included in the proposal over the anticipated life of the proposed development;

(4) A discussion of the mitigation requirements applicable to the proposal pursuant to relevant performance and mitigation standards, and a recommendation for additional or modified mitigation, if any; and

(5) Any additional information required for the specific use as specified in the sections of this part addressing that use.

c. Additional Report Submittal Requirements.

i. Unless otherwise provided, a special shoreline report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Director.

ii. Where a project requires a special shoreline report and a mitigation or restoration plan, the mitigation or restoration plan may be included with the special shoreline report, and may be considered in determining compliance with the applicable decision criteria, except as set forth in paragraph E.5.c.iv of this section.

iii. The applicant may consult with the Director prior to or during preparation of the special shoreline report to obtain approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential shoreline area impacts and required mitigation.

iv. Proposals to reduce the regulated shoreline setbacks below those required by this part shall include the following information in addition to the minimum special shoreline report contents described in paragraph E.5.b of this section. The restoration proposed to improve existing function included in the proposal must be separate from any impact mitigation proposal:

(1) The specific restoration actions proposed and the specific regulated setback dimensions proposed.

(2) The functions that will be enhanced by the restoration actions, addressing at minimum: habitat, hydrologic, vegetative and (where applicable) stream process functions.

(3) Functions that will be provided outside of the reduced regulated setback dimension proposed by the project, if any (for example, vegetation and habitat preservation, stormwater quality and quantity controls or low impact development features).

(4) The relative importance of the enhanced functions to the ecosystem in which they exist.

(5) A description of the net gain in functions by the restoration actions in the reduced regulated setback area and the proposal, compared to the functions that would be preserved under standard setback provisions of the SMP without restoration.

d. Incorporation of Previous Study. Where a valid special shoreline report or report for another agency with jurisdiction over the proposal has been prepared within the last five years for a specific site, and where the

proposed land use activity and surrounding site conditions are unchanged, previous report may be incorporated into the required special shoreline report. The applicant shall submit an assessment detailing any changed environmental conditions associated with the site.

6. Decision Criteria – Proposals to Modify Performance Standards or Reduce a Shoreline Setback. The Director may approve, or approve with modifications, a proposal to modify a performance standard or shoreline setback on a site where the applicant demonstrates:

i. The proposal includes plans for restoration of shoreline aquatic area, setback or upland area such that there is a measurable net gain in overall shoreline and critical area functions;

ii. The proposal includes plans for restoration of degraded setback or shoreline area such that there is a measurable net gain in the most important shoreline aquatic or habitat functions on the site;

iii. The proposal includes a net gain in stormwater quality function by the shoreline setback or by elements of the development proposal outside of the reduced regulated shoreline setback;

iv. Adequate resources to ensure completion of any required restoration, mitigation and monitoring efforts;

v. The modifications and performance standards included in the proposal are not detrimental to the functions and values of shoreline setbacks and critical areas off-site; and

vi. The resulting development is compatible with other uses and development in the same land use district.

7. Assurance devices. The Director may require assurance devices to ensure that any conditions of approval are fully implemented. Assurance devices shall be posted in accordance with LUC 20.40.490.

8. City technical review**.** The City may require the applicant to pay for technical review of the special shoreline report and related proposal by a consultant retained by the City to assist in determining compliance with paragraph E of this section.

F. Effective Date. The decision of the Director is the final decision of the City on a Shoreline Substantial Development Permit, and is effective on the date of actual receipt by the Department of Ecology of the final decision of the Director on the permit.

G. Commencement of Activity.

Construction pursuant to an effective Shoreline Substantial Development Permit shall not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130(6), or until all Shoreline Hearings Board petition for review proceedings initiated within 21 days from the date of filing have been terminated; except as provided in RCW 90.58.140(5)(a) and (b).

20.25E.170 EXEMPTIONS FROM SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS—LETTER OF EXEMPTION REQUIRED.

A. Purpose. Issuance of a letter of exemption is the mechanism by which the City administers the SMP for minor projects in a manner consistent with the policies of the SMA.

B. Letter of Exemption Required. Development described in paragraph B of this section shall not require Shoreline Substantial Development Permits so long as they are consistent with the policy and procedures of the Shoreline Management Act, Chapter 173-27 WAC, the SMP, and applicable requirements of this the BCC. Criteria for obtaining a shoreline letter of exemption are as set forth in Chapter 173-27 WAC, LUC 20.25E.150, and LUC 20.25E.170.

C. Letters of Exemption from the Shoreline Substantial Development Permit Requirements Shall be Issued for the Following:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed $5000 or as subsequently adjusted for inflation under WAC 173-27-040(2)(a), if such development does not materially interfere with the normal public use of the water or *shorelines of the state*. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on *shorelines of the state*. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. “Normal maintenance” includes those usual acts to prevent a decline, lapse, or cessation from a legally established condition. “Normal repair” means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline

resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment. Replacement of existing moorage pilings in the same location shall constitute "normal repair" under this paragraph. Although such normal repair or replacement is exempt from the substantial development permit process, certain limitations may apply to the repair or replacement of nonconforming structures, shoreline stabilization measures and moorage. See LUC 20.25E.020 (nonconforming development) and LUC 20.25E.080.F (moorage regulations);

3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective bulkhead" includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Repair or replacement meeting the terms of LUC 20.25E.080.F.5 shall be considered consistent with the terms of this paragraph. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the requirements of this paragraph and when the project has been approved by the department of fish and wildlife. See LUC 20.25E.080.F for additional provisions regarding shoreline stabilization measures;

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. The Director, or the designee thereof, shall designate when such an action constitutes an emergency action consistent with Chapter 173-27-040(2)(d). Emergency construction does not include development of new permanent protective structures where none

previously existed. Where new protective structures are deemed by the Director to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the SMP, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

6. Construction or modification of navigational aids such as channel markers or anchor buoys;

7. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average existing grade. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Under the SMP, normal appurtenances include a garage; deck; driveway; utilities; fences; shed; raised garden bed; hot tub/spa which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract

purchaser of single-family and multiple residence(s). This exception applies if the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this paragraph. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances;

9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

12. Any project with certification from the governor pursuant to Chapter 80.50 RCW;

13. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under Chapter 173-27 WAC and the SMP, if:

a. The activity does not interfere with the normal public use of the surface waters;

b. The activity has no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

d. A private entity seeking development authorization under this section shall first posts a performance bond or maintenance assurance device pursuant to LUC 20.40.490 to ensure that the site is restored to preexisting conditions; and

e. The activity is not subject to the permit requirements of RCW 90.58.550;

14. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

15. Watershed restoration projects as defined herein. The City shall review the projects for consistency with the SMP in an expeditious manner and shall issue its decision on the Letter of Exemption along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee shall be charged for accepting and processing requests for exemption for watershed restoration projects as defined in paragraph C.15 of this section.

a. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

   i. A project that involves less than 10 miles of streamreach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

   ii. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

   iii. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

b. "Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized

Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

16. A public or private project that is designed to improve fish or wildlife habitat or fish passage. The City shall review the projects for consistency with the SMP in an expeditious manner and shall issue its decision on the Letter of Exemption along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee shall be charged for accepting and processing requests for exemption for a public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following criteria have been met:

a. The project has been approved in writing by the department of fish and wildlife;

b. The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and

c. The project is substantially consistent with the SMP as demonstrated by compliance with the requirements set forth in WAC 173-27-040(2)(p)(iii).

D. Application and Interpretation of Exemptions.

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the exemptions listed in paragraph C of this section may be granted exemption from the substantial development permit process. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

2. Regulatory compliance required. An exemption from the substantial development permit process is not an exemption from compliance with the SMA, the SMP, or other City of Bellevue ordinances or permit regulations. To be authorized, all uses and developments must be consistent with the policies and provisions or the SMA and the SMP.

3. Burden of Proof. The applicant bears the burden of proof that a development or use is exempt from the substantial development permit process.

4. Conditioning a Letter of Exemption. The Director may attach conditions to the letter of exemption for developments and/or uses as necessary to assure consistency of the project with the SMA, the SMP, and the BCC.

E. Effective Date. The letter of exemption is effective immediate upon final decision by the Director.

F. Commencement of Activity. Construction or activity undertaken pursuant to an effective letter of exemption is at the applicant's own risk until the expiration of the appeals deadline to Superior Court described in LUC 20.25E.130.B.

20.25E.180 SHORELINE CONDITIONAL USE PERMIT.

A. Applicability and Scope.

This section applies to each application for a shoreline conditional use permit. This section establishes the procedure and criteria that the City will use in making a decision upon an application for a shoreline conditional use permit. Criteria for obtaining a shoreline conditional use permit shall be as set forth in Chapter 173-27 WAC and LUC 20.25E.150 and 20.25E.180.

B. Limitation on Filing

An application for a shoreline conditional use permit will not be accepted for filing unless accompanied by a complete application for a shoreline substantial development permit. Refer to LUC 20.25E.160.

C. Purpose.

A shoreline conditional use permit is a mechanism by which the City may both provide more control and allow greater flexibility in administering the shoreline master program in a manner consistent with the policies of the SMA. The City may permit certain uses to be established or may require special conditions on development or on the use of land to insure that designated uses or activities are compatible with other uses in the same land use district and in the vicinity of the subject property.

D. Decision Criteria.

1. The City may approve or approve with modifications an application for a shoreline conditional use permit if:

a. The proposed use is consistent with RCW 90.58.020 and the SMP;

b. The proposed use will not interfere with the normal public use of public shorelines;

c. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Bellevue Comprehensive Plan and SMP;

d. The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;

e. The public interest suffers no substantial detrimental effect;

f. The proposed use will be served by adequate public facilities including streets, fire protection, and utilities;

g. The proposed use is consistent with the Bellevue Comprehensive Plan; and,

h. The proposed use complies with the applicable requirements of the Bellevue City Code.

2. Consideration of Cumulative Impacts. In the granting of all conditional use permits, the City shall also consider the cumulative impacts of additional requests for like actions in the area. For example, if conditional use permits were granted for other development in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

E. Effective Date. Not withstanding the provisions of LUC 20.25E.100 through 20.25E.130, a Shoreline Conditional Use permit is not effective until it is approved by the Department of Ecology as required by WAC 173-27-200.

F. Appeals of Department of Ecology Final Decisions. Appeals of the Department of Ecology decision to grant, deny or rescind a Shoreline Conditional Use Permit shall be in accordance with RCW 90.58.180.

G. Commencement of Activity.

Development shall not commence and is not authorized until a Shoreline Conditional Use Permit is approved by the Department of Ecology or until all review proceedings before the Shoreline Hearings Board are terminated if the proceedings were initiated within 21 days of the date of receipt as defined in RCW 90.58.140(6).

H. Revisions to an Approved Shoreline Conditional Use Permit.

Revisions to a previously approved Shoreline Conditional Use permit shall be processed in accordance with LUC 20.25E.150.E and WAC 173-27-100.

I. Merger with Binding Site Plan.

1. General. The applicant may request that the site plan approved with the shoreline conditional use permit constitute a Binding Site Plan pursuant to Chapter 58.17 RCW.

2. Survey and Recording Required. If a site plan is approved as a Binding Site Plan, the applicant shall provide a recorded survey depicting all lot lines and shall record the approved site plan and survey with the King County Department of Records and Elections, or its successor entity. No document shall be presented for recording without the signature of each owner of the subject property.

3. Effect of Binding Site Plan. Upon the approval and recording of a Binding Site Plan the applicant may develop the subject property in conformance with the approved and recorded Binding Site Plan and without regard to lot lines internal to the subject property. Any sale or lease of lots or parcels within the subject property shall be subject to the approved and recorded Binding Site Plan and the requirements of state law.

J. Periodic review.

The City may impose periodic review requirements as a condition of permit approval.

K. Modification/Revocation.

1. Modification. The City may initiate a modification to an approved shoreline conditional use permit. A modification will be processed through Shoreline Process I decision pursuant to LUC 20.25E.110. Through the modification procedure, the Hearing Body may delete, modify or impose additional conditions upon finding that the use for which such approval was granted has been intensified, changed or modified by the property owner or by person(s) who control the property without approval so as to significantly impact surrounding land uses.

2. Revocation. The Hearing Body may revoke an approved permit through Shoreline Process I decision pursuant to LUC 20.25E.110. An approved permit may be revoked only upon a finding that:

a. The use for which the approval was granted has been abandoned for a period of at least one year;

b. Approval of the permit was obtained by misrepresentation of material fact; or

c. The permit is being exercised contrary to the terms of approval

20.25E.190 Variance to the Shoreline Master Program.

A. Applicability and Scope.

This section applies to each application for a shoreline variance. This section establishes the procedures and criteria that the City will use in making a decision upon an application for a shoreline variance to the provisions of the Shoreline Master Program. Criteria for obtaining a shoreline variance shall be as set forth in Chapter 173-27 WAC and LUC 20.25E.150 and 20.25E.190.

B. Limitation on Filing.

An application for a shoreline variance will not be accepted for filing unless accompanied by a complete application for a shoreline substantial development permit. Refer to 20.25E.160.

C. Purpose.

The purpose of a variance to the SMP is strictly limited to granting relief to specific bulk, dimensional or performance standards set forth in the SMP where there are extraordinary or unique circumstances relating to the property such that strict implementation of the standards would impose unnecessary hardships on the applicant or thwart the policies of the SMA.

D. Decision Criteria.

1. The City may approve or approve with modifications an application for a shoreline variance to the SMP if:

a. Denial of the variance would result in thwarting the policy of RCW 90.58.020;

b. The applicant has demonstrated extraordinary circumstances and the public interest will suffer no substantial detrimental effect;

c. The strict application of the bulk, dimensional or performance standards of the SMP preclude, or significantly interferes with, reasonable use of the property;

d. The hardship described in paragraph E.1.c of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size or natural features and the application of the SMP, and not, for example, deed restrictions or the applicant's own actions;

e. The design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Bellevue Comprehensive Plan and SMP and will not cause adverse impacts to the shoreline environment;

f. The variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and

g. If the variance permits development and/or uses that will be located either waterward of the ordinary high water mark as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate compliance with the following additional criteria that:

i. The strict application of the bulk, dimensional or performance standards of the SMP precludes all reasonable use of the property, and

ii. The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

2. Consideration of Cumulative Impacts. In the granting of all variance approvals, the City shall also consider the cumulative impacts of additional requests for like actions in the area. For example, if variance approvals were granted for other development and/or uses in the area where similar circumstances exist, the total of the variance approvals shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

3. Limitation on Authority. The Director may not grant a variance to:

a. The provisions of LUC 20.10.440 or Part 20.25E LUC establishing the allowable uses in each land use district or environment designation;

b. The provisions of LUC 20.25E.100 through 20.25E.140, the provisions or LUC 20.25E.150 through 20.25E.200, or any other procedural or administrative provision of the Land Use Code (including the definitions);

c. Any provisions of the Land Use Code within the primary approval jurisdiction of another decisionmaker as established by the BCC; or

d. Any provision of the Land Use Code which, by the terms of the Code, is not subject to a variance.

E. Effective Date. Not withstanding the provisions of LUC 20.25E.100 through 20.25E.130, a Shoreline Variance approval is not effective until it is approved by the Department of Ecology as required by WAC 173-27-200.

F. Appeals of Department of Ecology Final Decisions.

Appeals of the Department of Ecology decision to grant, deny or rescind a Shoreline Variance approval shall be in accordance with RCW 90.58.180.

G. Commencement of Activity.

Development shall not commence and is not authorized until a Shoreline Variance is approved by the Department of Ecology or until all review proceedings before the Shoreline Hearings Board are terminated if the proceedings were initiated within 21 days of the date of receipt as defined in RCW 90.58.140(6).

20.25E.200 Amendments to the Text of the Shoreline Master Program.

A. Scope.

This section establishes the procedure and criteria that the City will use in deciding to amend the text of the Shoreline Master Program.

B. Applicability.

This section applies to each amendment of the text of the Shoreline Master Program.

C. Purpose.

An amendment to the text of the Shoreline Master Program is a mechanism by which the City may bring its Shoreline Master Program into conformity with the Shoreline Management Act, the Department of Ecology's Shoreline Guidelines (Chapter 173-26 WAC), the Bellevue Comprehensive Plan, or respond to changing conditions or needs of the City.

D. Who May Initiate.

1. The City Council, the Planning Commission, or the Director, with the concurrence of either body, may initiate and amendment to the text of the Shoreline Master Program.

2. Although the Planning Commission is generally the advisory body for amendments to the Shoreline Master Program, the City Council may amend the text of the Shoreline Master Program without prior review or recommendation from the Planning Commission, provided a public process is undertaken in accordance with Chapter 173-26 WAC.

E. Applicable Procedure.

The City will process an amendment to the text of the Shoreline Master Program using Land Use Process IV (LUC 20.35.400 through 20.35.450). The Planning Commission is generally the advisory body.

F. Decision Criteria.

The City may approve or approve with modifications a proposal to amend the text of the Shoreline Master Program if:

1. The amendment is consistent with the Shoreline Management Act, Chapter 90.58 RCW, the Department of Ecology's Shoreline Guidelines, Chapters 173-26 and 173-27 WAC;

2. The amendment is consistent with the Bellevue Comprehensive Plan;

3. The amendment enhances the public health, safety, or welfare; and

4. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

G. Effective Date. A master program, segment of a master program, or an amendment to a master program shall become effective when approved by the Department of Ecology pursuant to RCW 90.58.090.

VI. ADMINISTRATION AND ENFORCEMENT AND DEFINITIONS

20.25E.250 ADMINISTRATION.

A. Purpose.

The purpose of this section is to set forth the provisions for the interpretation, general administration, and enforcement of the Bellevue SMP, and to provide definitions and acronyms specific to Part 20.25E LUC.

B. Applicability.

Chapter 20.40 LUC contains provisions governing the administration and enforcement of the Land Use Code. Such provisions shall apply within the shoreline jurisdiction, except as noted below. If a conflict occurs between the provisions of Chapter 20.40 LUC and the Bellevue SMP, the provisions of the SMP shall prevail.

C. Administrative Provisions Specific to the Shoreline Master Program.

1. Vesting of Shoreline Application. An application for approval of either a shoreline substantial development permit or a shoreline conditional use permit shall be considered under the Shoreline Master Program, the Land Use Code, and other land use controls in effect on the date that a fully completed application is submitted for approval which satisfies the submittal requirements specified by the Director pursuant to LUC 20.25E.100.C.3.

2. Expiration of Vested Status of Shoreline Permits and Shoreline Variances. Shoreline substantial development permits, shoreline conditional use permits, and variances shall expire and are void two years from the effective date of the permit as defined in WAC 173-27-090(4), unless:

    a. The applicant commences construction activities within two years of the effective date of the shoreline permit; or where no construction activities are involved, the use or activity is commenced within two years of the effective date of the shoreline permit; or

    b. The applicant requested an extension prior to the expiration date and received an extension for the shoreline permit pursuant to paragraph C.6 of this section.

3. Shoreline Variances. Shoreline variances shall run with the land in perpetuity if they are recorded with the King County Department of Elections and Records, or its successor entity, within 60 days following Ecology's final action on the variance. Unrecorded variances shall survive the life of the project.

4. Final Expiration of Shoreline Permits. Permit authorization expires finally, despite commencement of construction, five years after the effective date of the relevant shoreline permit, unless the applicant has received an extension pursuant to paragraph C.6 of this section.

5. Tolling. The time period set forth in paragraph C.2 of this section shall not include the time during which an activity or development was not actively pursued because of the pendency of litigation or the need to obtain other government permits or approvals, including all reasonably-related administrative or legal actions on such permits or approvals.

6. Extension of shoreline permits.

   i. The Director may extend a shoreline permit, not to exceed one year, with prior notice to the Department of Ecology and those who requested copies of the Director's decision, only if:

      (1) Unforeseen circumstances or conditions necessitate the extension of the permit;

      (2) Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and

      (3) An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.

   ii. The Director may grant no more than two extensions:

      (1) A single one year extension may be granted to the two-year construction commencement deadline described in paragraph C.2 of this section; and,

      (2) A single one year extension may be granted to the five-year final expiration deadline described in paragraph C.4 of this section.

   iii. When a Building permit is issued, the vested status of a shoreline permit shall be automatically extended for the life of the Building Permit. If the Building Permit expires, or is revoked or cancelled pursuant to BCC 23.06.100 or otherwise, then the vested status of a shoreline permit shall also expire, or be revoked or cancelled.

20.25E.260 Enforcement.

The enforcement of the Bellevue SMP shall be in conformance with LUC 20.40.450 and the enforcement provisions of Chapter 173-27 WAC, as currently adopted or subsequently amended or superseded.

20.25E.270 Interpretations.

A. Rules of Statutory Construction. Consistent with RCW 90.58.900, the Bellevue SMP is exempt from the rule of strict construction and shall be liberally construed to give full effect to the purposes, goals, objectives, polices, and regulations.

B. Requests for Written Interpretation. Requests for written interpretation of the provisions of the Shoreline Overlay (Part 20.25E LUC) will be processed as a Land Use Process II decision pursuant to Chapter 20.35 LUC using the procedures and criteria for Interpretation of the Land Use Code contained in Part 20.30K LUC.

20.25E.280 Definitions Specific to the Shoreline Overlay District.

In addition to the definitions in Chapter 20.50 LUC, the following definitions apply only in the Shoreline Overlay District. General definitions not applicable in the Shoreline Overlay District are noted in the text of the general definitions listed in Chapter 20.50 LUC. Additionally, the definitions set forth in RCW 90.58.030, as amended, and Chapter 173-26 WAC, as amended, shall also apply.

Accessory structure. Any structure incidental and subordinate to a primary structure and located on the same lot or development site as the primary use.

Agricultural Land. Means those specific land areas on which agricultural activities are conducted as of [Insert date of adoption] as evidenced by aerial photography or other documentation. After [Insert date of adoption], land converted to agricultural use is subject to compliance with the requirements of the master program.

Aquatic Lands. Means all tidelands, shorelands, harbor areas, and the beds of navigable waters.

Associated Wetlands. Associated wetlands are wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

Beach. The zone of unconsolidated material that is moved by waves and wind currents, extending from the waters edge to the vegetation line.

Boathouse. A boat cover that includes at least one wall. Boathouses may be structurally integrated into or attached to the dock or boatlift or may be freestanding.

City Facilities and Systems. City Facilities and systems means the works, buildings and grounds owned, leased, or rented by the City of Bellevue and the elements required to provide public services. City facilities and systems includes, but is not limited to, utility systems and facilities and park facilities.

Community Club. A community club is a recreation-focused, water related community organization whose members consistent of residents or moorage slip owners of a specified area. The community club use includes social gathering space and facilities, administration and facility offices, group activities, social support, public information, and other community uses. Community Clubs also include member and guest parking and typical community club social activities, including food and beverage services for members and guests, social gatherings, and meetings. Community Clubs also provide

water-related experiences to persons who would not otherwise have access to the water. Community clubs must provide a moorage as a primary use.

Dock. A structure that is attached to land and serves a function of providing moorage and access to deeper water. Components of a dock include, but are not limited to pilings, walkways, stringers, joists, and moorage platforms.

Dock, Existing. A legally established dock maintained and kept in good working order.

Dock Expansion. An increase in the surface area of a dock or number of piling.

Dock Bumpers. A vertical material, consisting of periodic strips installed at regular intervals in the moorage area to prevent small boats from drifting under the dock, which is designed as part of the dock, and is intended to protect users from hazards created at variable water heights and to prevent dock and watercraft wear or damage. Dock bumpers do not extend below the established ordinary high water mark.

Dock Surface. The floor or walking surface of a dock walkway or moorage platform.

Ecological Functions. Means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201 (2)(c)

Ecosystem-wide Processes. Means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Enhancement. Means alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions.

Fair market value of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

Fill. Means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

Hand-Operated Equipment. Means equipment or tools held in a person's hand for operation, including power-operated garden tools such as lawn mowers (non-riding), power-edgers, string trimmers, garden cultivators, rototillers, and leaf blowers. Hand-operated equipment does not include equipment such as riding lawn mowers, dump trucks, bulldozers, or front-end loaders.

Height is the vertical distance measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or to the ridge of a pitched roof; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included; provided further, that temporary construction equipment is excluded in this calculation. Residential uses in single family land use districts are required to meeting the building height definition of LUC 20.50.012 and the maximum in building height requirements of LUC 20.20.010 and Note 44, now or as hereafter amended.

Light Penetrable Materials, Dock. Construction materials that allow the passage of light. Light penetrable materials include, but are not limited to, grating, skylights, and translucent fabrics and panels.

Marina, Private. Uses at a private marina include boat moorage, boat storage, boat maintenance, boat repair, retail boat and parts sales, boat launching, administration and facility offices, retail sale of boating-related items (including food and beverage), restrooms, and facility parking. Marinas also provide parking areas for automobiles, waste collection, boat sales or rental activities, retail establishments including vessel fueling services, and boat repair or servicing facilities. The Marina use is not intended to support heavy commercial and industrial uses; however, limited non water-oriented commercial uses should be allowed when part of a mixed-use marina development that incorporates public access and ecological restoration.

Marina, Public. A public marina use is a publically-owned, recreational boating facility where the primary emphasis is to provide moorage and grant public access to water-oriented recreation. Public marinas are allowed only through approval of a Park Master Plan that provides oversight to the development and operation of the marina, including the range of uses allowed. Public marinas may provide parking areas for automobiles, administration and facility offices, waste collection, rental activities, and other recreational boating activities, including minor boat repair to moored vessels.

Minimum Necessary, Dock. The minimum overwater area and length needed to provide the intended function of the structure.

Nonwater-Oriented Uses. Means any use not identified as water-oriented.

Ordinary High Water Mark (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology.

Public Access. Means the ability of the public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

Public Access Improvements. Improvements integrated into a project design intended to enhance the ability of the general public to reach, touch, or enjoy the waters associated with shorelines of the state. Improvements may include a combination of beaches, trails, sidewalks, view platforms, benches, lighting, docks, and signage provided such improvements do not impact existing ecological functions.

Reconfiguration, Dock. A modification to the location, footprint or layout of an existing dock.

Replacement, Dock. The reconstruction of an existing dock in the same location and same configuration.

Shorelands and **Shoreland Areas.** Shorelands and shoreland areas are those areas extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands associated with the streams and lakes.

Shoreline Areas and **Shoreline Jurisdiction**. Shoreline areas and shoreline jurisdiction means all shorelines described in LUC 20.25E010.C.2, "shorelines of the state," and "shorelands."

Shoreline Development. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level.

Shoreline Functions. See "ecological functions."

Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them: except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of Statewide Significance. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark and those natural rivers or segments thereof where the mean annual flow is measured at one thousand cubic feet per second or more. Shorelines of statewide significance in Bellevue include lakes Sammamish and Washington.

Shorelines of the State. The total of all "shorelines" and "shorelines of state-wide significance" within the state.

Shoreline Vegetation, Existing. All living plant, tree, hedge, shrub and groundcover material located in the shoreline structure setback required by LUC Chart 20.25.E.065.F as of [INSERT EFFECTIVE DATE of ordinance].

Skirting, Dock. An architectural feature of a dock designed to hide the structural elements by extending below the established ordinary high water mark.

Structure. A combination of materials constructed and erected permanently or temporarily on or under the ground or attached to something having a permanent location on, above, or below the surface of the ground or water. Not included in the definition of structure are vessels, shoreline stabilization, docks, residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height, and similar improvements of a minor character.

Visual Access. Improvements that provide a view of the shoreline or water, but do not allow physical access to the shoreline.

Water-Dependent use. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

Water-Enjoyment use. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public

and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-Oriented use. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Water-Related use. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Wetland. Refer to LUC 20.25H

Yacht Club. A yacht club is a water-dependent recreational boating club that provides water access and moorage to the club's members and guests. Uses at a yacht club uses include boat moorage, social gathering space and facilities, small boat storage and launching, sanitary waste collection, service and repair to moored boats, member and guest parking, and typical yacht club social activities including food and beverage services for members and guests, social gatherings, and meetings. Additional activities may include cultural, educational, and charitable elements related to recreational boating, including hosting of water-related public/private organizations and events, boating and sailing instructions, and providing water enjoyment experiences to some who would not have access to the water. Yacht Clubs are not intended to support commercial, industrial, mixed-use, or general public access, except as required by the SMP.